

PROVINCIAL AND TERRITORIAL INTERESTS IN LAND USE PLANNING AND DEVELOPMENT

FINAL DRAFT

November, 2002

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Acknowledgement

The authors of the report would like to express their most sincere appreciation to the provincial, territorial and local government respondents who took time out of their often hectic schedules to participate in interviews, provide written responses, comment on drafts and suggest sources for further reading. Clearly this study would not have been possible without their generous contribution in terms of time and expertise.

We would also like to thank Catherine Marchand, Executive Director of ICURR, for her efforts in facilitating this research.

EXECUTIVE SUMMARY

Land use planning in Canada is in the process of undergoing a radical shift as legislation, much of which dates from the 1980s or even the 1970s, is less and less able to cope with the increasing complexity of land use issues faced in every region of the country. Growing metropolitan regions, mechanization and intensification of farming practices and a growing concern over environmental issues have radically altered the context within which planning takes place. Concerns with water quality, particularly in light of the Walkerton tragedy, as well as the advent of Intensive Livestock Operations and rapidly expanding urban fringes are at the fore of land use issues facing planners in Canada today.

The Issues

The planning issues vary by region. In the sparsely settled North, economic development and issues related to resource exploitation and environmental preservation dominates. Land settlement claims with First Nations add another dimension to the planning process, as existing planning systems seek to accommodate new jurisdictions and governance structures.

In rural areas, farming issues are of primary importance. Intensive Livestock Operations (ILOs) are of utmost concern in many provinces, due to their impact on the environment and rural residents' quality of life. Protection of agricultural lands is becoming increasingly important due to rapid expansion of urban fringes and the proliferation of exurban development. Issues related to agriculture are ever more intertwined with settlement issues, suggesting that there is a need for a more integrated approach in addressing both.

Planners are also beginning to pay more attention to the special situation and needs of urban areas. While zoning has long been employed to separate incompatible land uses and preserve the character of certain areas, there is now a greater emphasis on maximizing efficient use of infrastructure, transportation efficiency and, in some areas, increasing residential densities and clustering of major commercial developments such as big box retail. At present, provincial involvement in planning for major urban areas is minimal in many jurisdictions, although most have indicated a commitment to strengthening their urban policies. As Canada's population becomes increasingly concentrated in large urban centres, planning for these areas will become an ever-greater priority.

Water: In part because of the recent tragedy in Walkerton, Ontario, water quality was of major concern across the country. Many respondents specifically cited the tragedy, and noted it had affected land use policy development in their jurisdiction. Concerns with water quality were not limited to drinking water, however; many respondents expressed a need for watershed planning and improved integration between planning jurisdictions for land and water.

Agriculture: Agriculture was another major point of concern, both in terms of protecting the agricultural land base and planning for new and traditional farming practices. Only two of the provinces have agricultural land reserves in place to prevent any non-rural development in specifically designated rural areas. In Ontario and Prince Edward Island in particular, pressures to develop agricultural lands are causing considerable pressure in the urban fringe and the rural

hinterland. In other regions, such as the Prairies, intensive livestock operations present the greatest challenges at present. Without adequate planning, this relatively new form of large-scale livestock production has the potential to seriously compromise the environment and rural residents' quality of life. In many cases, current policy is recognized as being inadequate to accommodate this type of development, and provinces are moving rapidly to develop an appropriate policy response.

Urban Areas: Many respondents, noting the difficulties in formulating uniform legislation that accommodates both small rural communities and large metropolitan areas, believe current policy statements do not adequately detail provincial interests in urban areas, particularly in large urban centres. Many fringe and ex-urban developments have been highlighted as major concerns, and often result in inter-municipal friction. Clearly, municipal jurisdictions alone cannot plan for metropolitan areas, and more regional approaches are required. A number of provinces have important regional governance structures in place around their major urban centres (i.e. the Greater Vancouver Regional District, and the new Montreal Metropolitan Community). However, there is no clear consensus as to the policies and roles provincial governments should adopt vis à vis their largest cities. Many governments have indicated that strengthening urban planning policy is a priority, but few have a clear strategy of how to go about it.

Environment: Environmental protection and “sustainable development” ranked high on the list of priorities in all jurisdictions. The issues ranged from sustainable resource management and improvement of air quality to the protection of ecologically sensitive areas such as coastal regions and habitat preserves, and sustainable management of parks and recreation areas. Many provinces and territories indicated a need to incorporate the concept of sustainability into their legislation, and that there was a need to better integrate land use planning and environmental protection.

Governance and Regional Planning Models: Governance was a significant issue in nearly every province and territory. In Newfoundland and New Brunswick, the priority was to create stronger planning and better representation in the large unincorporated areas. In other jurisdictions, and particularly in Saskatchewan and the North, the difficulty of delegating planning authority to the local level was attributed to the small size of many communities and municipalities. Regional planning was seen as particularly important in rural regions experiencing a decrease in population and economic decline. Although they do not fall within territorial jurisdiction, First Nations land claim settlements were a major issue in the North and in British Columbia. Finally, almost every jurisdiction stated that a move toward a regional model of planning was necessary to more effectively address contemporary land use issues, including environmental sustainability, resource management, growth management and economic development. Though the solutions will be different for each province, there was a sense that governments are searching for models of regional planning appropriate for their context.

Some of the major themes related to governance are:

- **Legislation and Departmental Integration:** In order to cope with the issues outlined above, an ever more complex set of legislation is being employed to ensure provincial interests in land use are protected. Originally, planning was governed almost exclusively by a provincial or territorial planning act. Now, other statutes have a major impact on planning practices, most notably statutes governing the environment, agriculture, governance, natural resources,

heritage, transportation and parks, among others. Introducing new legislation to address issues can, however, lead to difficulties if the legislation is not well coordinated. For instance, in some cases one statute may contradict another, or a development proposal may have to go through a number of separate stages of approval, causing serious delays for a development's proponents.

Lack of integration and coordination is also an issue at the departmental level. Recognizing the complexity and interrelatedness of land use issues, an unprecedented number of departments including environment, agriculture, natural resources, transportation, industry, and heritage, are now involved in land use planning. As such, there is a greater need for interdepartmental frameworks to coordinate these efforts. A number of provinces have established interdepartmental bodies to facilitate land use planning. Ontario and Newfoundland, for instance, have adopted a “**single window**” approach. New Brunswick has achieved some degree of co-ordination by amalgamating the departments of Environment and Local Government, as well as the creation of a Sustainable Planning Branch. Some provinces, such as Newfoundland and Manitoba, have **interdepartmental planning committees**. Nova Scotia once had a similar Deputy Ministers Committee on Land Use to coordinate land use issues across departments, but this committee has been disbanded and consultation now occurs on an *ad hoc* basis. Prince Edward Island has a Land Use Coordination Committee (LUCC) to provide a forum for civil servants to review and discuss land use issues as they arise. Senior level direction to land use planning in British Columbia is provided by the Deputy Minister's committee on Natural Resources and the Economy. Integration at the local level is achieved through a range of planning and implementation processes. Quebec takes a different approach. Integration occurs at the local level through **Regional County Municipalities (RCM)** empowered to address a range of planning considerations and work directly with the Ministry of Municipal Affairs and Housing, as well as other provincial departments.

- **Mediation:** The increasing complexity of planning issues has led to more conflict, but few provinces have adapted their mechanisms to resolve disputes. Most provinces continue to work with an antagonistic model, where panels (usually Municipal Boards or the courts) decide the matter. **British Columbia** and **Quebec** stand out for their emphasis on consensus-based models, which stress early consultation and mediation. These provinces' approaches differ significantly. British Columbia relies exclusively on the **mediation process** and **binding arbitration**. Quebec emphasises early consultation and mediation, but also relies on the Commission Municipale du Quebec (Municipal Board) and a **referendum process** that reflects the greater responsibility of elected officials with regard to land use planning. Alberta has a Municipal Board in place, but the province also has a strong mediation assistance program that encourages alternative approaches to dispute resolution by providing financial resources and expertise. While many other provinces are beginning to experiment with such alternative dispute resolution mechanisms, there appears to be reluctance to move toward alternative models as the primary mechanism to resolve disputes. Most provinces expressed overall satisfaction with the Municipal Board structure, with approval times being the main source of dissatisfaction.

- **Incorporating Community Capacity-Building into Planning:** As planning becomes more complex, provincial and territorial jurisdictions are also recognizing a need to put an emphasis on community capacity building into the planning process. Most are in the process of delegating more authority to the local level, even as they seek to articulate their own interests more clearly through legislation, provincial land use policies and provincial policy statements. Most jurisdictions stated that planning authority is properly located at the local level, and that the province and territory should, to the extent possible, limit itself to a guiding role. Provincial and territorial policy should be flexible enough to ensure it is sensitive and appropriate to local situations. However, clear guidelines must be in place to maintain protection of provincial interests. A number of provincial and territorial respondents indicated local governments are less likely to address major issues they perceive to be outside of their jurisdiction, such as protection of water quality or the environment. It is therefore imperative for provinces to ensure proper enforcement mechanisms and adequate resources are in place to protect provincial interests in land use.
- **Official Plans:** As responsibility is increasingly situated at the local level, the lack of official plans in some communities is becoming of greater concern. Because enforcement is primarily tied to official plans (many of which require provincial approval), planning remains weak in unincorporated areas as well as municipalities with no official plan. Furthermore, communities with a plan in place may not have the resources to review or to enforce them. In many areas, inadequate planning reflects a lack of capacity in terms of staff, funding and expertise. If provincial and territorial governments are to delegate a significant level of planning activities to the local level, they will have to become more pro-active in developing this capacity. Many respondents cite education of local government officials and the general population as the most effective approach to improving planning at the local level. Training and education initiatives in some jurisdictions have been deemed highly effective, and it was stated increasing planning expertise would be an effective means of improving planning efficacy. Many respondents also indicated their ability to plan effectively has been compromised due to staff and budget cuts to planning departments.
- **Regional Planning:** Moving toward regional planning was seen as imperative to addressing a number of important issues, most particularly **watershed protection** and effective planning for **metropolitan areas**. Regional planning is well established in Quebec, and land claim settlements in the territories have facilitated a shift toward integrated regional planning. A number of provinces have strong regional planning practices for Crown, but not for private lands. Only Quebec has comprehensive regional planning structures, while Nova Scotia has recently moved to a province-wide county structure that facilitates regional co-operation.

The basic planning units in Quebec are **Regional County Municipalities (RCM)**. Nearly all municipalities in Quebec are grouped into these regional units (created in 1981). RCMs must adopt regional development plans. In addition to RCMs, Quebec has three “urban communities” (Montreal, Quebec and the Outaouais) that encompass one-third of the province’s population, and thus have a slightly different governance structure to accommodate their significantly higher and more concentrated populations. Quebec’s planning units allow for a local, integrated approach to be taken with regard to land use policy as regional bodies are

best equipped to develop a coherent policy approach incorporating the various elements of land use planning.

- **Performance Measures:** Ontario performance measures program is in its early stages. The recently implemented Municipal Performance Measures Program requires municipalities to report on two indicators measuring ex-urban settlement: 1) the number of lots established outside of designated settlement areas; and 2) the number of hectares of designated agricultural land converted to non-agricultural uses. These measures are part of a larger program to encourage municipal fiscal accountability. Ontario might take the current program one step further and implement a monitoring system to evaluate municipal land use policy decisions to determine if provincial land uses policies are being implemented appropriately. The province is currently developing broad measures for each policy area of interest. Other provinces have indicated a need for performance measurements, but few articulated concrete ideas as to what might be measured.

INTRODUCTION

1. Rationale for Report

Land use planning has changed radically in Canada over the last three decades. Until the 1970s, most provinces and territories were governed by planning acts; their primary purpose was to delegate specific powers with regard to land use from the provincial to the local level. The legislation was prescriptive rather than enabling, and offered little flexibility or opportunity for local initiative.

In the mid-1970s, eight of the ten provinces undertook extensive revisions of their planning acts, fine-tuning the legislation as well as the supporting bureaucratic structures.¹ The revisions sought to meet the new challenges presented by an increasingly urbanized population and a revolution in farm practices with the advent of large, industrial farms. Both phenomena resulted in intensified pressures on land and the environment, compelling governments to become more heavily involved in the regulation of land use.

Currently, most provinces are in the midst of a second major overhaul of their planning approach and practices. Quebec, for example, is implementing its recently amended land use policies, and is considering a substantive review of its planning legislation. Saskatchewan is preparing to bring its planning act more up to date through a comprehensive review, and British Columbia has redrafted its *Local Government Act*; as well, the province will undertake a review of local government land use authority and planning as part of the Community Charter development process.. The most fundamental change in planning legislation has been the move from permissive legislation to an enabling framework allowing local governments to be much more pro-active.

The growing interest in land use planning may be attributed to three key issues that have emerged over the last decades. First, a growing appreciation of the adverse impacts of many types of development on the natural environment has led to a greater concern with implementing **environmentally sustainable practices**, particularly in the area of land use. Related to this is the **rapid expansion of urban areas**, a phenomenon also creating substantial land use conflicts in fringe areas. The increasing **devolution of responsibilities** to municipalities for financing infrastructure/services and related land use planning implications has also had an impact.

While the perceived need for planning has grown over the years, the changing political climate has, to a greater or lesser degree, affected the approach taken. Recession, the debt crisis and the “downloading” of responsibility have led to significant changes in how government, including planning departments, operate. Provincial and regional planning functions have been reduced in some provinces, including Alberta and Prince Edward Island, while “strategic planning,” modelled on business approaches, has to some extent replaced comprehensive planning. Increasingly concerned with reducing operating expenses, provincial and municipal governments have found themselves cutting planning positions, reducing operations and “streamlining” procedures while

¹Hodge, G. (1986). *Planning Canadian Communities*, Toronto: Methuen.

trying at the same time to maintain, or even improve, the effectiveness of the planning system.²

As planning changes in light of these factors, the need for more complex legislation develops. Many regions have responded by adapting their land use legislation to better address contemporary issues. While some are undertaking a comprehensive review of their legislation, many are engaged in planning reform in a piecemeal fashion. A number of regions have not significantly altered their planning practices for decades.

Basic planning acts are complemented by a number of related acts, most importantly those respecting agriculture and the environment. A host of other issues relating to land use are governed by separate acts addressing natural resources (mining, fish, water, forests, parks, protected areas), heritage and transportation. While land use authority is concentrated in the planning and municipal government acts, some aspects of land use fall under other jurisdictions.

This report will provide an overview of the planning systems in place in each province and territory, as well as a more detailed look at five major planning issues identified as important across the country.

2. Background

In 2000, the Intergovernmental Committee on Urban and Regional Research put out a call for proposals to conduct a report on the various policy approaches to land use across Canada. In January of 2001, the Institute of Urban Studies and the Rural and Small Towns Research Programme at Mount Allison University and the Urban Aspects Consulting firm in Victoria BC submitted a successful proposal to conduct the study.

The Rural and Small Towns Research Programme took responsibility for conducting the literature review, providing the contacts and conducting the interviews for the Maritimes, Quebec and Nunavut. The Urban Aspects Consulting firm performed the same tasks for British Columbia and the Yukon. The Institute of Urban Studies undertook these functions for Ontario, the Prairies and the Northwest Territories, plus took the responsibility for synthesizing all reports and preparing the final document.

Information was gathered through surveys and interviews, and a draft was prepared at the end of 2001. This draft was then submitted to ICURR for review and revisions in February 2002. Provincial representatives were then responsible for reviewing the draft and submitting corrections and/or revisions. During the summer of 2002 those revisions that were received were incorporated into the report. A final draft was completed in November of 2002.

²Grant, J. A. (2000). Planning Canadian cities: context, continuity and change. In T. Bunting & P. Filion (Eds.) *Canadian Cities in Transition*, second edition. (p. 452). Don Mills: Oxford University Press.

3. Objectives

The study on provincial and territorial interests in land use planning and development has three principal objectives:

- To identify the various policy approaches the provinces and territories have adopted, or are considering, to express and protect their interests in land use development;
- To evaluate the effectiveness of the different approaches; and
- To determine what lessons have been learned in the adoption and administration of land use policies in each jurisdiction that might be transferrable to other jurisdictions.

4. Methods

Research for this study involved three main components:

- a literature review of legislation and recent government documents, and other academic and non-academic documents;
- telephone and personal interviews with key informants at the provincial and territorial level;
- a written mail-out survey of select local governments across the country, including cities, municipalities, rural municipalities, counties and regional county municipalities.³

The interviews with key informants and information gathered through the survey of municipalities were used to verify and expand on comprehensive information gleaned through the literature review. These key informants were planners and other provincial and civic officials. When, in the course of the text below, it is stated that “the city of ----- said...” it should be understood that what we are of course saying is that “the representative from the city of ---- said...”

5. Limitations

There are a number of important constraints the reader should bear in mind when reviewing this report.

The first is that the scale of this project is so large, and the relevant issues and contexts so numerous, this report will only be able to provide a somewhat superficial analysis of all of them. Each land use issue in each province could easily be the subject of its own report; as a result, a number of organizations, initiatives and issues with extensive implications for the focus of this

³ Municipalities were selected to represent a range in size, location, type and demographics. See appendix F for more detailed information.

study are going to be dealt with only in passing.

The second is that this report was conducted, assembled and written over the space of almost two years. During this time some policies – and indeed entire governments -- have changed. There are inevitably going to be elements within this report that will be out-of-date and incorrect at the time of publication. While the authors have made every effort to obtain the most current information, we must acknowledge that this report should be considered as a foundation on which future effort may be based; to approach the project otherwise would require another format – such as a website – which could be continually updated. The reader should be advised that the contents largely reflect a cut-off date of December 2001.

The third and perhaps most important limitation is that the evaluative elements in this report are *not the opinions of the authors*. The opinions and other evaluative statements regarding the efficacy of policy are those of the respondents. The methods employed in the survey and interviews did not permit us to double-check the validity of every comment, nor to survey all respondents a second time on the many observations gathered in the surveys and interviews. Therefore, some of the opinions may be controversial, and indeed may even be considered by the reader to be misguided and incorrect. However, these opinions should be read as only that, and not construed to be the opinions of the authors or some “objective” third party.

The fourth major limitation (and one related to number three) concerns the organization of information. Unlike most standard empirical studies presenting information as it was gathered through a particular research instrument, typically through the use of tables and graphs, this report attempts to synthesize in thematically-grouped paragraphs the information and opinions gathered through literature, interviews and surveys. The statements are not, therefore, going to be identifiable from a particular process, nor is there any effort to attach quantities or percentages to observations. Statements of opinions expressed by five different officials will be presented with the same weight as those that may have been offered by only two. While this approach may not be scientific, the objective of this report is not to determine how many individuals, organizations or governments might hold an opinion regarding a particular policy, but rather to simply raise points for consideration. This approach also, in the opinion of the authors, makes for a more readable and usable document.

There are other limitations related to administration that should be considered. Owing to differing levels of cooperation from the provincial and municipal authorities we contacted, there is a notable absence of comments from some important departments and ministries. As well, some respondents provided more detail and analysis than did others. While some respondents were very reflective, providing comments and analysis above and beyond the required response, others were more cautious and elaborated little on the official departmental position. As a result, the quality of information available varied by jurisdiction. The mailed survey of municipalities, while yielding some exceptionally useful information, had a response rate of 44%, which is considered quite good. This means of course that 56% of those whom we contacted provided no information. The level of response varied significantly by region, with British Columbia, Ontario and Quebec having the highest response rates, and Atlantic Canada and the Territories having the lowest. The Prairie Provinces enjoyed a reasonable response rate of 41.6%. The level of local government response may have been affected by a lack of local government resources and capacity. Individuals contacted at some smaller municipalities indicated they lacked the time or expertise to complete the

questionnaire (please see appendix G for a breakdown of municipal responses). The reader may therefore notice--particularly in Part Two--that some information is extremely detailed for certain provinces, while other provinces apparently get short shrift. This is not the result of neglect; there may simply have been little or no relevant information on a particular theme provided by the informants. Although the lack of response in some regions can be considered a shortcoming, information collected from other sources has helped to offset some of the discrepancies.

6. Structure of Report

In Part One, each province and territory is reviewed in turn, and grouped according to region (Prairies, Atlantic provinces, Northern Territories). The one exception is that central Canada is grouped with BC, simply because the growth issues are similar. For each province / territory, key highlights are provided, as well as a summary of the legislation, the governmental bodies responsible for administering them and the mechanisms in place to implement them.

In Part Two, five major themes derived from the review in Part One are explored, and then relevant policies or initiatives in each province / territory are briefly highlighted. These themes are: Water, Agriculture, Urban Areas, Environment, and Governance.

The report concludes with a thematically-organized summary of selected Best Practices and Innovative Approaches, listed according to the appropriate province or territory.

There are seven appendices, including a glossary of acronyms; the text of the surveys in both English and French; the criteria for the selection of the municipalities surveyed; and the response rate for the surveys according to province.

Part One:

Land Use Policies
by Province / Territory

THE PRAIRIES

The Prairie Provinces face similar land use issues, even as their planning structures differ significantly. The proliferation of Intensive Livestock Operations in recent years has presented major planning challenges across the prairies, while issues related to water quality, protection of agricultural lands and fringe development have also gained in importance. Saskatchewan's key issue is how best to coordinate planning in a province with a small population but a large number of municipal governments. Manitoba is reviewing its long-standing provincial land use policies, while Alberta is redesigning its approach to planning for Crown lands. In the meantime, issues of inter-municipal cooperation and movement toward regional planning are important in all three Prairie Provinces. Each province is struggling to find a formula that works in its specific social and political context. However, the issues themselves are surprisingly similar.

ALBERTA

Legislation

Planning in Alberta is regulated by the *Municipal Government Act* (MGA) and its attendant subdivision and development regulations. The legislation is unique in that it focuses almost exclusively on municipalities as the land use planning authority, with the province playing only a very minor role in local land use planning decisions. The province does not review or approve municipal plans and land use bylaws, and municipalities are entrusted to carry out their responsibilities under the MGA with no provincial checks in place to ensure compliance. Downsizing in the provincial department has eliminated most land use planning functions at the provincial level. This reflects the provincial government's belief that in most areas of concern to land use planning, authority is properly located at the local level. Indeed, this process has resulted in shorter approval times than found elsewhere in the country. The MGA sets out requirements for a range of planning functions, such as the preparation of municipal statutory plans and land use bylaws.

While municipalities are entrusted to ensure their planning processes are consistent with the MGA, where such plans might effect provincial interests (such as subdivisions for land adjacent to highways or bodies of water) the plans must be referred to the appropriate provincial department. It was noted the MGA, which replaced the provincial *Planning Act* in 1995, resulted in a more equal status between urban and rural municipalities. This, in turn, has created a greater need for inter-municipal planning and cooperation. The

Key Highlights

- little provincial involvement in municipal planning
- provincial land use policies open to wide interpretation
- most pressing land use issues too broad to be addressed by municipal level of government
- effective mediation process, funded by the province

Primary Ministries / Departments Involved	Plans and Approval Mechanisms
<ul style="list-style-type: none"> • Municipal Affairs • Sustainable Development • Environment • Transportation • Infrastructure • Agriculture Food and Rural Development 	<ul style="list-style-type: none"> • Municipal plans required for municipalities population 3,500+ (no provincial review)
Policy Instruments	Planning Areas (and Governance Bodies)
<ul style="list-style-type: none"> • <i>Municipal Government Act</i> <ul style="list-style-type: none"> • <i>Land Use Policies</i> • <i>Environmental Protection and Enhancement Act</i> • <i>Public Highways Development Act</i> • <i>Water Act</i> • <i>Public Land Act</i> • <i>Agricultural Operations Practices Act</i> 	<ul style="list-style-type: none"> • Municipalities (Municipal Council)
	Interdepartmental Coordinating Bodies
	<ul style="list-style-type: none"> • Sustainable Development Coordinating Committee • Ministers' Provincial-Municipal Council on Roles and Responsibilities and Resources in the 21st Century • Informal Mechanisms
	Dispute Resolution Mechanisms / Bodies
	<ul style="list-style-type: none"> • Provincial Mediation Assistance Program • Municipal Government Board

province has effectively fostered inter-municipal collaboration. Section 3.0 of the Land Use Policies allows for inter-municipal collaboration, and the MGA requires municipal development plans address the coordination of land use and infrastructure with adjacent municipalities. While Inter-municipal Development Plans are permitted, it is preferred the municipalities address these issues within their own statutory plans. Intermunicipal planning is strengthened by a clause in the MGA requiring municipalities to attempt a joint resolution of an issue before appealing to the Municipal Board. In some instances, intermunicipal planning has led to effective intermunicipal fringe planning and annexation to accommodate cities' future land use needs. It has served as a tool for easing the process of annexation.

The MGA requires municipalities with populations over 3,500 inhabitants to adopt a municipal development plan, which must be drafted to be consistent with provincial *Land Use Policies* (1996). The policies were developed with input from key provincial departments, and all statutory plans and land use bylaws must be consistent with them. The policies themselves, however, are worded broadly, using equivocal language [i.e. "Municipalities are *encouraged to*"]. Therefore, although municipalities are bound to conform to the policies, the policies themselves are worded in

such a way that they are open to interpretation. While land use policies are concerned with protecting agricultural land, natural features and water resources, there are no province-wide mechanisms to support these objectives. While the content of the policies was seen to be positive, the lack of enforceability was deemed to be a problem. Stronger, more directive policies were called for to strengthen land use planning legislation.

Local plans generally incorporate or attempt to reasonably reflect provincial policies within the context of local priorities. Most provincial departments have not indicated the singular degree of flexibility has been a problem. However, Alberta Agriculture Food and Rural Development staff and participants at the AG Summit 2000 consultation on agriculture reported the policies are not effective in achieving desired outcomes with regard to protection of agricultural land. The government is studying approaches to measuring performance with regard to land use planning, particularly with respect to the protection of agricultural lands. A proposed flood plain initiative is also being developed. Flood plain regulation at present occurs through the land use policies, and is consequently not obligatory; however provincial authorities may require subdivision applications concerning flood-prone lands to designate such lands as environmental reserves.

Some municipalities reported the provincial policies are too broad, and do not clearly indicate how they are to be implemented and to what degree. The province could have offered more guidance with regard to processes such as inter-municipal planning.

Process

Emphasizing local authority and responsibility, the land use planning system in Alberta ensures municipalities enjoy a high degree of autonomy. The strength of Alberta's legislation lies in its enabling, rather than prescriptive, approach. Enforcement can, however, be an issue since the province does not monitor municipal implementation of provincial policy. The lack of performance measurement, reporting and review has been cited as a major problem with the system. There is some concern, for instance, that the current system fails to adequately address certain issues, such as growth management and conservation. In fact, some of the most pressing land use issues in the province, namely resource development, agriculture and inter-municipal issues, are too broad to be effectively addressed by the municipal level of government.

Local government is involved in provincial policy-making through consultation with Alberta's municipal associations, as well as ad hoc committees formed around specific issues. Municipalities indicate that the province is open to dialogue and provides feedback when necessary. At the local level, meanwhile, it is the responsibility of municipal government to ensure adequate public consultation takes place: no provincial standards have been set. Public and local government consultation is generally built into provincial initiatives, usually through a committee or task force assignment. At the same time, it was acknowledged the results of such processes can be weak and inconclusive.

Municipal Affairs is the lead provincial department with responsibilities regarding land use planning, and administers the MGA. Other departments with strong interests in this area are Sustainable Resource Development (Public Land), Environment, Transportation and Food, Infrastructure, Agriculture and Rural Development. The Alberta Energy and Utilities Board, the Natural Resources Conservation Board and Community Development and Economic Development

are also significant players, albeit with more limited involvement. Generally, municipalities said that there is adequate cooperation among these departments. Still, integrating departments that deal with the same land use issues but from varying perspective was seen as a change.

Pertinent legislation attached to the departments include the *Environmental Protection and Enhancement Act*, the *Public Highways Development Act*, the *Water Act* and the *Public Land Act*. The *Water Act* sets stipulations for subdivisions, namely that an applicant for a subdivision requiring more than six lots on a quarter section and relies on ground water for the water supply must demonstrate the supply of neighbouring license holders will not be affected.

For proposals involving interests at both the municipal and provincial levels (e.g., casinos, development on Crown lands), approvals from both levels are required before development can proceed. Sometimes, however, projects are far more important at the provincial level. In cases such as these (like a gas plant) the necessary approvals, once obtained from the appropriate provincial authorities, will prevail over any municipal plan, or land use bylaws. Indeed, certain types of industrial or infrastructure developments—including oil wells, pipelines, transmission lines and confined feeding operations—are exempt from municipal approval.

Mechanisms to Resolve Conflict

Subdivision decisions affecting defined provincial interests (e.g., land near a body of water or highway) are appealed to the Municipal Government Board. Meanwhile, if local governments do not conform to provincial legislation, affected persons may appeal local decisions to the Courts on a matter of law or jurisdiction. Municipalities appoint their own approving authority and appeal boards to review cases that do not involve provincial interests. In the case of inter-municipal disputes, municipalities may appeal the adoption of a neighbouring municipal plan or bylaw to the Municipal Government Board if it has a deleterious effect on their jurisdiction. However, municipalities must attempt mediation before submitting an inter-municipal dispute to the Municipal Government Board. The same holds true for requesting an annexation that is opposed by the municipality from which the land is to be taken. The province's mediation assistance program is one of its strongest land use planning practices. The province is very pro-active with regard to developing alternative dispute resolution mechanisms. Overall, municipalities indicated that appeals are costly, time consuming and adversarial and viewed alternative dispute resolution mechanisms as being preferable.

Governance Challenges

Municipalities have an unusual amount of authority over land use planning; yet at the same time, they have no control over uses that are, for the most part, industrial or extractive. While regional planning is not explicitly provided for, intermunicipal cooperation is. On the other hand, the means by which Alberta provides for planning on Crown lands is well-coordinated, highly sophisticated, and is cited outside of the province as an important model for regional resource planning. Alberta is taking strides to strengthen existing policy with regard to resource management. However, it appears, at present, the province wishes to reduce its role in monitoring resource users for compliance to standards at the same time as it seeks to strengthen those standards.

SASKATCHEWAN

Legislation

Saskatchewan's most important piece of planning legislation is the *Planning and Development Act*, (1983). The province recognizes there is a need to update and strengthen planning legislation in general, and the *Planning and Development Act* in particular. Although the Act has been fine tuned over the years, there has been no major overhaul to date.

The *Planning and Development Act* has been the principal piece of legislation used by the province to protect its interest in land in the past. With changing circumstances, however, this primary element of control is supported by a number of other pieces of legislation including the *Heritage Property Act*, the *Forest Resources Management Act*, the *Provincial Lands Act*, the *Wildlife Habitat Protection Act*, the *Ecological Reserves Act*, and the *Reservoir Development Area Regulations* pursuant to the *Environmental Management and Protection Act*.

The names of these various Acts and regulations illustrate how the provincial interest in land has evolved as certain issues became more important, namely the environment, buildings with recognized heritage value, efforts to better protect primary resources such as the forests and agricultural land and protection of habitat. More focussed pieces of legislation have therefore been introduced to augment the *Planning and Development Act* and address these emerging and evolving issues.

These various pieces of legislation could be much more effective if the focus was on providing an integrated and comprehensive approach to managing environmental, economic, social, recreational, cultural and other community interests. Despite the efforts of the various departments to consult on, coordinate and integrate the various pieces of legislation, it appears planning and land use policy is too focused on single issues, and lacks the comprehensive approach required to deal with complex land use issues.

Key Highlights

- governance issues in small municipalities
- need to further develop provincial land use policies
- need for better inter-departmental coordination

Primary Departments/Ministries Involved	Plans and Approval Mechanisms
<ul style="list-style-type: none"> • Municipal Affairs and Housing • Saskatchewan Agriculture and Food • Saskatchewan Environment and Resource Management • Saskatchewan Water Corporation, Energy and Mines • Saskatchewan Wetlands Corporation 	<ul style="list-style-type: none"> • Official Community Plan • Planning Statement
Policy Instruments	Planning Areas (and Governance Bodies)
<ul style="list-style-type: none"> • <i>Planning and Development Act</i> • <i>Heritage Property Act</i> • <i>Environmental Management and Protection Act</i> • <i>Reservoir Development Area Regulations</i> • <i>Forest Resources Management Act</i> • <i>Provincial Lands Act</i> • <i>The Wildlife Habitat Protection Act</i> • <i>The Ecological Reserves Act</i> 	<ul style="list-style-type: none"> • Municipalities (Municipal Councils)
	Interdepartmental Coordinating Bodies
	<ul style="list-style-type: none"> • Ad Hoc Committees
	Primary Dispute Resolution Mechanisms / Bodies
	<ul style="list-style-type: none"> • Municipal Board

The provincial economic development strategy entitled *Partnership For Prosperity - Success in the New Economy* has also had a strong influence on land use policy direction. Various reports on the environment, the hog industry and other important land use issues of the day also have an influence. These documents highlight the need for change, suggest directions land use policy should (or should not) take, and highlight the need for coordination between and within governments and a more comprehensive approach to planning. These documents are, in many ways, driving the current initiatives to update the *Planning and Development Act* and development of provincial interest regarding community and land use planning.

The Province does not currently have provincial land use policies in place. However, it was said that developing such policies to clearly state provincial interests and adopting them through legislation would provide better guidance to municipalities developing planning documents and provide a more formal basis for review of these plans by Municipal Affairs and Housing. Provincial land use policies could complement and strengthen the mandates and policies of other agencies with an interest in land use planning. Establishing clearer provincial policies and interests should be a major priority for the provincial government at present, as these policies will provide a focus around which the activities of the various pieces of legislation can be coordinated.

Although provincial land use policies were seen as highly desirable, it was emphasized the absence of such policies did not imply principles of land use planning are not being applied. The various

departments try to ensure sound land use planning principles are respected. However, the absence of formal legislation makes it more difficult to challenge local governments that do not always respect provincial interests in their plans. Establishing local requirements for land use planning and ensuring effective implementation of provincial interests are important priorities for the provincial government.

A discussion paper regarding proposed amendments to *The Planning and Development Act* (2001)⁴ concludes major changes are needed in the following areas:

- the province needs to identify its interests in planning and development and develop provincial land use policies
- the province should delegate greater authority to the municipal level and allow for more flexibility and local control
- sections of the act require clarification
- more consistency is required in regulatory processes
- an effective inter-municipal dispute resolution mechanism is required consolidating all planning-related legislation in this act

Process

Municipalities in Saskatchewan are not required to adopt an official community plan. However, current legislation sets out criteria that must be applied if plans are created. Some communities adopt a planning statement with attendant zoning bylaws instead of a plan. Both planning statements and official plans are developed through a community consultation process. Prior to the adoption of a bylaw, a municipality must advertise its intent to pass the bylaws. A municipality is also free to include more public consultation than required in the planning legislation. The absence of development plans and associated zoning bylaws can lead to problems, particularly in declining municipalities that may resist developing an official land use plan. Reluctant municipalities may fear that an official plan will be both expensive to produce and maintain, and that implementing such a plan will lead to increased regulatory control. Municipalities may also lack the capacity and expertise to engage in a meaningful planning process. This situation has led to some difficulties in recent years, particularly in instances where municipalities are suddenly faced with major land use changes, such as the development of large hog barns and feedlot operations. Some municipalities simply do not have the tools in place to deal with these issues, protect their interests and protect the environment.

The province's capacity to address important issues on a province-wide basis is limited because community planning is voluntary and some municipalities do not have a statutory plan. Furthermore, the requirements for statutory plans are such that provincial interests are not always fully addressed. Current regulations need to be reviewed to ensure proper water and sewer systems and the protection of soil and water against pollution. It was also noted there are too few controls on private wells and sewage systems in areas with certain soil conditions. Current Subdivision and

⁴Municipal Planning Directors of Saskatchewan. (2001). *Discussion Paper: Proposed Amendments to the Planning and Development Act* (1983).

health regulations do provide such controls, but there is a need to strengthen them. Provincial land use policies may be able to address these weaknesses.

Ministerial approval is required for all statutory plans, dedicated land sales and exchanges and subdivision approval. While the approval process helps ensure legislation is enforced and protects provincial interests, it can also compromise local autonomy. It was suggested that local governments need to be more accountable for their own actions and have more autonomy for community planning and land use. Indeed, municipalities stated that the provincial approval process was too slow and cumbersome, particularly in terms of amendments to the development plan. However, the lack of plans in some municipalities, the lack of an integrated approach to comprehensive planning, the absence of provincial land use policies and the lack of capacity in some municipalities make it difficult at present to transfer more autonomy to local governments.

While the lack of community planning in some areas was seen to be a problem, it was recognized that greater demands for research and the time and detail required in the development of planning documents (particularly as land use issues become more complex) result in higher consulting charges and development costs for local governments, the province and the development sector. The retrenchment of staff and resources in the 1980s and 1990s has exacerbated this situation. Updating legislation and providing provincial land use guidelines may improve coordination at the provincial departmental level, helping to at least reduce the costs nominally, but more comprehensive requirements, particularly to address environmental issues, may increase local governments' costs even more.

The province views municipalities as an important stakeholder in the policy development and implementation process, and works closely with individual municipalities and municipal associations. Nevertheless, local government is seen to have very little autonomy with respect to land use planning within its boundaries. The Province is in the process of re-drafting its planning legislation and developing statements of provincial interest in community planning in order to provide a framework for municipal planning and increased local autonomy. Provincial representatives see land use planning as a municipal responsibility and an area in which the province should only intervene if a provincial interest is at stake. As long as planning documents reflect provincial interests and guidelines, the municipality should have autonomy to proceed.

There is always difficulty balancing provincial interests with the flexibility to accommodate local interests. Usually the consultation process arrives at a satisfactory solution. However, where the conflict cannot be resolved through consultative or political processes, provincial legislation will always supersede and take priority over provincial interests. If local governments do not conform to provincial legislation they are subject to the same enforcement and appeal procedures of legislation as is the public.

Level of Coordination and Public Consultation

The province's land use legislation is not integrated and there is no standing committee that meets on a regular basis to co-ordinate either legislation or the issues arising under the various acts. The pieces of legislation are administered individually. Nevertheless, there is co-ordination between departments (although there is no framework to formalize this co-ordination). Interdepartmental communication is significant; the departments with interest in a particular issue often take the responsibility to coordinate inter-departmental discussions, and their staff meet to solve problems as they arise.

Because of its significant interest in land use and planning issues, the Department of Municipal Affairs and Housing (MAH) often plays a lead role in attempting to foster co-ordination between the various departments with responsibility for the various pieces of legislation.

Although Municipal Affairs and Housing has the most focused role and the primary legislative interest in land policy, many other departments are involved, but to a lesser extent. Saskatchewan Agriculture and Food (SAF) and Saskatchewan Environment and Resource Management (SERM) administer Crown Land, with individual mandates administered under *The Provincial Lands Act*. Both agencies have adopted an Integrated Resource Management Process for Crown Land and work closely with other departments to achieve inter-departmental co-ordination. They also have strong interests in incorporated areas of the Province. Other departments with a role in land use planning include Saskatchewan Water Corporation, Energy and Mines and the Saskatchewan Wetlands Corporation.

The number and nature of departments involved reflect two key aspects important to the development of effective land use policy in today's environment. First, and perhaps most important, it illustrates the complex nature of land use issues and the need for a coordinated and comprehensive approach to planning. Secondly, it highlights an important range of issues including primary resources (agriculture, forestry and oil, for example), water quality, ecology and the environment, just to name a few.

Views were mixed as to whether the planning process was adequately integrated and co-ordinated across departments, or whether it was fragmented and without the necessary co-ordination. Land use planning for Crown lands by SERM and SAF provided the opportunity for co-ordinated planning. Furthermore, it was suggested that co-ordination was improving, that it was an objective and priority of every department involved, and that MAH is playing a lead role in facilitating co-ordination between the various departments. However, it was also acknowledged that fragmentation still existed and there was room for improvement. While the need for co-ordination is recognized, limited staff resources and the priorities and strategic foci of the respective departments leave insufficient time for proper co-ordination.

The current *Planning and Development Act* provides for an adequate level of local decision making and public consultation by outlining a process for public notice and involvement in a number of areas including: statutory plans and amendments; individual notice to affected land owners for re-zoning of land; discretionary use applications; dedicated land sales; and, exchanges and appeals. With these mechanisms built into the process, the public has adequate opportunity to be heard, but final decisions still rest with Council or an Appeal Board. The public also has the

opportunity to be involved in the policy development process, but this process is far less formal and depends on consultation initiatives by governments.

Mechanisms to Resolve Conflict

It was clear from the interviews that the planning system is dealing with a significant level of land use conflict. Issues identified included subdivision approval, setback requirements along highways, lakeshore development and potential flooding, access to land, servicing requirements and land use conflicts, notably in areas of intensive livestock operation. The most controversial developments, and ones where it is most difficult to arrive at an acceptable development decision, include developments related to lakeshore, urban and intensive livestock operations. In urban fringe areas, municipalities often disagree on development issues, particularly regarding the nature and location of development. Intensive livestock operations result in a range of conflicts from land use to environmental issues, while lakeshore developments highlight servicing, access, environmental and flooding issues. Water quality and protection of water services is also a contentious issue, and there is a perceived lack of policy direction and control at the provincial level.

Another very current issue is the oil and gas sector and associated exploration (drilling) activities in rural municipalities. The oil and gas sector wants to facilitate the process of access, in essence speeding up municipal approval of operations. It has been suggested that responsibility for access and approval of operations and associated land use issues be taken away from the municipalities and vested in the Province, as is the case in Alberta. However, there seems to be no strong argument to treat this sector differently.

A number of mechanisms are in place to resolve land use conflicts. Some are built into the regulations and include setbacks to minimize land use conflicts such as those associated with intensive livestock operations. Other regulations address public safety and hazardous land situations in the subdivision development process. Although there is no formal consensus building or conflict resolution structure, an appeal process exists through the Saskatchewan Municipal Board, and the Department of Justice offers mediation services.

One area which lacked a conflict resolution process altogether was inter-municipal conflict. The only recourse for settling such disputes are the courts. Nevertheless, District Development Plans facilitate cooperation among municipalities. The province encourages inter-municipal cooperation, and planning legislation establishes a framework for Planning Districts.

Land use planning could be improved and some of the conflict reduced if provision were made for specific area planning and adoption of sector plans. The important land use issues can be very area specific. For instance, issues such as lack of adequate sewer services and lack of fiscal and human resources to deal with land use issues are especially pressing in the province's north.

Governance Challenges

Provincial officials indicated there is a need to emphasize community building in planning, making sure the local authority is there to get the job done and at the same time encouraging inter-municipal

cooperation. There are too many processes requiring provincial approval, and too much supervision of municipal planning matters at the provincial level. This is crucial in a province such as Saskatchewan with so many small municipalities.

The key officials interviewed believe most other provinces were more advanced in terms of municipal structures and planning systems frameworks. The Manitoba model could be considered in Saskatchewan.

The *Planning and Development Act* must provide municipalities with stronger planning tools so that municipalities are able to protect their interests and those of the province. There is also a need to clarify roles and responsibilities in community planning and to enhance inter-jurisdictional cooperation. Overall, legislation has to be more effective and efficient if it is to address the evolving issues facing the Province and local municipalities.

Legislation

Manitoba's primary piece of planning legislation is the provincial *Planning Act* (1976), which applies to all areas of the province except the City of Winnipeg, which is governed by the *City of Winnipeg Act*, with planning provisions outlined in Part 20. Although the provisions for land use planning are essentially the same in both acts, the City of Winnipeg is not subject to the provincial *Land Use Policies*. Provincial interests with respect to the City of Winnipeg are, however, included in the *City of Winnipeg Act*.

Manitoba's provincial *Land Use Policies* (1980, revised in 1994) have been adopted by a regulation under the *Planning Act*. As such, they must be considered in all land use planning decisions. The *Land Use Policies* are used to evaluate subdivision proposals in areas where no development plan is in place. Where development plans have been adopted, they supercede the *Land Use Policies* with the understanding that only plans conforming to the policies are approved by the provincial government.

Manitoba's *Land Use Policies* are comprehensive in scope and address matters of the environment, hazard areas and economic well-being. Developed in the mid-1970s, the policies emerged in response to specific land use issues rather than a philosophical position. In this respect they differ significantly from Quebec's land use policies, also developed at this time. Manitoba's policies direct incompatible uses away from hazard zones including flood plains and environmentally sensitive areas (i.e. groundwater and habitat). Furthermore, they offer some protection for prime agricultural land, as well as land rich in minerals and gas or otherwise of economic value. The policies indicate rural land use should be resource-related, while urban development should be guided to ensure orderly expansion, the enhancement of urban centres and the ongoing viability of both existing infrastructure and the Central Business District (CBD).

Key Highlights

- strong provincial land use policies
- effective inter-departmental coordination
- need to foster a stronger regional perspective
- development of better consensus-based models to resolve conflicts at municipal/provincial and inter-municipal level

Primary Departments / Ministries Involved	Plans and Approval Mechanisms
<ul style="list-style-type: none"> • Intergovernmental Affairs • Conservation • Agriculture and Food • Aboriginal and Northern Affairs • Transportation and Government Services • Industry, Trade and Mines • Culture Heritage and Tourism • Highways 	<ul style="list-style-type: none"> • Official Community plans (not required; no provincial approval) • Regional Growth Strategies (required in some areas; approval by all local governments in region and the board of each adjacent regional district) • Land and Resource Management Plans
Policy Instruments	Planning Areas (and Governance Bodies)
<ul style="list-style-type: none"> • <i>Planning Act</i> <ul style="list-style-type: none"> • <i>Land Use Policies</i> • <i>Municipal Act</i> • <i>City of Winnipeg Act</i> • <i>Environment Act</i> • <i>Sustainable Development Act</i> 	<ul style="list-style-type: none"> • City of Winnipeg • Municipalities • Rural Municipalities • Manitoba in general outside of Winnipeg
	Interdepartmental Coordinating Bodies
	<ul style="list-style-type: none"> • Interdepartmental Planning Board
	Dispute Resolution Mechanisms / Bodies
	<ul style="list-style-type: none"> • Municipal Board

Manitoba's policies were last reviewed in 1997, and may be reviewed again in the near future. It is expected that new policies may be added, and the province may extend their application to the City of Winnipeg. While this was seen as an important step for the province, the urban components of the policies would have to be strengthened significantly to reasonably address Winnipeg's land use planning issues. In fact, it was suggested that strengthening urban policy should be among the province's current priorities. Among the issues to be examined are regional concentration of commercial development and transportation. The use of direct, clear, measurable language in policies is also seen as an important element of effective planning practice. Currently, there are no clear performance measures built into the planning system. The department is considering incorporating this into its policy review.

Manitoba's land use policies are generally flexible enough to address local circumstances in an appropriate manner, and that sensitivity to local circumstances is reflected in provincial planning practice. Municipalities may negotiate with the province as to how provincial policies will be applied. This allows adequate flexibility, even while the province retains the final approval authority. Some indicated the degree of local compliance with the policies is uneven, with municipalities less likely to safeguard areas they perceive to be a provincial responsibility. For

instance, protecting water quality and the environment are left to the province, while municipalities concentrate on such priorities as protecting hazard zones or separating incompatible land uses. On the other hand, one municipality suggested the province's application of its own land use policies was also uneven, and called for a more consistent approach. The province has adopted the role of facilitator, rather than legislator, and resulting in a lax approach toward its land use policies. In some cases, the province was perceived as adopting a more flexible stance in its dealings with rural municipalities than with urban ones.

Manitoba's land use policies work well because they were developed through an interdepartmental process. Although they are adopted under the *Planning Act*, and fall under the authority of the Department of Intergovernmental Affairs, they are enforced by individual departments, ensuring they are broadly endorsed. Provincial departments with interests in land use planning include Intergovernmental Affairs, Conservation, Agriculture and Food, Aboriginal and Northern Affairs, the Department of Highways and Government Services, Industry, Trade and Mines, and Culture, Heritage and Tourism. The efforts of these departments are coordinated through the Interdepartmental Planning Board (IPB), made up of the deputy-ministers of these departments. In addition to this body, it is common practice to consult with appropriate departments in both a formal and informal context. Municipalities reported the provincial departments are accessible, with the Community Planning Services Branch coordinating provincial responses from intergovernmental agencies. Still, some reported that the departments themselves could adopt a more coordinated approach to land use planning. Assistance provided by the province's regional planning offices was considered very helpful.

One municipality pointed out that departments other than Intergovernmental Affairs are, at times, involved in land use planning. In the case of Highways, one municipality stated the legislation was outdated, affecting its own development plan since a highway runs through the municipality. This example suggests dialogue among departments could still be strengthened, and that a greater degree of consistency among legislation could be improved.

It was observed that Manitoba's planning system is effective, although its strength ultimately depends on the level of political will to enforce the legislation. For instance, while municipalities must conform to provincial land use policies, the approval of subdivisions and municipal plans rests with the provincial Minister of Intergovernmental Affairs who therefore has ultimate authority in the matter.

Mechanisms to Resolve Conflict

The Municipal Board plays an important role in Manitoba's appeal process. Appeals of subdivision and zoning decisions of municipalities not forming a part of a Planning District are dealt with by the Municipal Board. Similar appeals from other municipalities are dealt with by the Board of the Planning District. Objections to a Development Plan or Development Plan Amendment are referred to the Minister of Intergovernmental Affairs, who may refer them to the Municipal Board for a report and recommendation. Appeals deemed to be spurious are not passed on to the Board, to preclude abuse of the system by delaying projects. It was noted there is no appeal process for some rulings, such as those on conditional uses. It was said this needs to be addressed, and that the entire appeal process should be reviewed. Municipalities stated that the appeal process, like the planning approval process, was too slow. One municipality said the final decision should not rest

with the Minister, but rather with some other body. Further, it was the view of some municipalities that the Municipal Board does not always follow precedent in its rulings, which could result in inconsistent interpretation of legislation.

The appeal process is slightly different for the City of Winnipeg, which has the ability, but not the requirement, to set objections aside rather than refer them to the Board. The City very rarely invokes this privilege.

In addition to the Municipal Board, Manitoba has two important quasi-judicial boards making rulings on farming issues and the environment. The Farm Practices Protection Board and Clean Environment Commission operate parallel to the Municipal Board, and deal with specific types of land use disputes.

Although Manitoba has recently attempted to resolve inter-municipal disputes through mediation, this practice is still in an experimental stage and there is no indication it will be introduced as a standard practice in the near future. The province is reluctant to pass legislation requiring mediation, as it believes this practice is not always feasible. Rather, mediation is available as an option for municipalities, with the Municipal Board remaining the primary arbiter of land use conflicts. One municipality suggested some form of alternative dispute resolution mechanism should be adopted to resolve disputes between municipalities and the province since under the current system, the province has final decision-making power. Several municipalities highlighted the lack of an appropriate mechanism to resolve inter-municipal disputes.

Governance Challenges

A number of recent documents play a strong role in determining future government directions with regard to land use planning. The *Report on the Consultation on Sustainable Development Implementation* (1999), better known as the “COSDI Report,” is a directional document that may lead to the implementation of new policies. Although its recommendations are broad, the report addresses important issues and attempts to fill some gaps in current policy. The recommendations aim to refine provincial interests to provide greater detail at a regional level, to better integrate natural and settlement boundaries, and to facilitate a more integrated approach to land use planning. It also seeks to address the gap between provincial policies and the planning process at the local government level by integrating planning boards, special district boards, and environmental groups. Finally, the report advocates incorporating sustainable development practices into all aspects of the planning process; for instance by building it into current policy and legislation, by creating large area planning units throughout the province and by requiring all local governments to adopt municipal plans.

The province also developed *Planning Manitoba's Capital Region: Next Steps* (2001), a report advocating a number of steps:

- strengthening the provincial land use policies (both in terms of the degree of detail and legislative force);
- fostering a stronger regional perspective in development and planning;
- addressing growth management and equity issues across jurisdictional boundaries;

- developing a regional planning process that will find ways to address inter-municipal conflicts; and
- developing better consensus-based models to resolve inter-municipal conflicts. The government is currently working on several issues identified in this report, including ways to improve the dispute resolution process.

Finally, a recent report addresses one of the province's most pressing land use issue, Intensive Livestock Operations (ILO). *Finding Common Ground: Sustainable Livestock Development in Manitoba* (2000) calls on the province to develop criteria assisting in the assessment of development plans that will ensure they promote principles of sustainability. Noting there is little regional coordination of ILOs, which have significant environmental impacts and a lack of guidelines to regulate them, the report recommends the province should encourage municipalities to plan on a district basis. However, the report maintains that final decisions regarding ILOs should continue to be made at the municipal level, and advocates a two-phase approval process, requiring the assent of both the municipality and the province.

From a local government perspective, a lack of funding and interdepartmental coordination, as well as out-of-date legislation, constitutes obstacles to municipalities' abilities to respond to contemporary land use issues. One municipality stated that environmental regulations regarding septic fields and minimum lot sizes were overly restrictive. The provincial approval process is believed to be too slow, particularly in the North where the construction season is very short. One municipality noted that the cumbersome approval process encouraged the development of plans that are detailed in some respects, but also maintain wording general enough to allow the municipality latitude in responding to changes in the community. However, it was indicated that the province was flexible with regard to policy implementation.

ATLANTIC CANADA

Though planning practices among the provinces in Atlantic Canada reflect the differences in political, economic and geographic realities, strong similarities emerge in terms of land use and governance issues. All provinces, with the noteworthy exception of Nova Scotia, struggle with the question of planning and service provision in their unincorporated areas. This issue is of particular concern given the strong trend toward rural residential development in New Brunswick, Nova Scotia and Prince Edward Island, which occurs not only in the urban fringe areas, but also in unincorporated districts where fewer planning controls are in place. Due to the region's scenic qualities and local peoples' close ties to the countryside, rural residential and recreational development is an important consideration throughout Atlantic Canada, making necessary the protection of traditional resource-based activities, particularly farming, and measures to maintain public access to coastal areas. The protection of water sources is a major concern throughout Atlantic Canada, and strong legislation has been implemented toward this end. The provinces reported that moving toward regional planning will strengthen present initiatives to protect the water supply.

NEW BRUNSWICK

Legislation

The existing *Community Planning Act* (1972) is a relatively powerful tool but is considered to be underutilised at present. Sections of the act dealing with zoning, flood risk, subdivision and building (sections 34 through to 60) provide for a substantial amount of control over development, but are not applied to their full potential. The act states that communities *may* prepare official plans, but are not required to do so. However, if a plan is prepared, a number of elements are required, including statements of policy regarding land use development, conservation of the physical environment and pollution, among others.

It was suggested that New Brunswick's current planning act is too rigid and outdated to effectively address the needs of cities and large towns. Furthermore, there is little integration between municipal plans and the surrounding regions, since no regional plans have been created (though legislation would permit them). Planning for rural and urban areas remains a challenge. New Brunswick's District Planning Commissions, which can prepare plans for municipal and rural areas within their jurisdiction, have met with some

Key Highlights

- *Community Planning Act* not applied to full potential
- lack of regional planning, although legislation and tools permit it
- would like to develop an ecological approach to planning
- wish to foster greater autonomy at the local level
- lack provincial land use policy statements
- integrated approach to environmental stewardship is being developed
- growth on urban fringe is a major issue

success. The commissions can include member municipalities as well as unincorporated areas. Representation to the commission is based on population, and the chair is elected by members of the commission. Legislation also allows rural plans to be prepared by Local Service Districts wishing to work together. The plans are simpler and more suited to rural needs than municipal plans.

Both the previous and the present government have identified the need to revise legislation to more effectively address contemporary land use issues. Improvement of the *Community Planning Act* is needed, specifically in terms of its enabling provisions. The planning theory and approaches found in the act date from the 1960s and do not reflect contemporary approaches to planning. The act is rigid in its accommodation of local situations, takes a regulatory approach and is not particularly pro-active. The act does not effectively address the needs of cities and large towns.

<p>Primary Ministries / Departments Involved</p>	<p>Planning Areas (and Governance Bodies)</p>
<ul style="list-style-type: none"> • Environment and Local Government • Natural Resources and Energy • Business New Brunswick • Agriculture fisheries and Aquaculture • Sustainable Planning Branch 	<ul style="list-style-type: none"> • Municipalities (Municipal Councils or District Planning Commissions) • Local Service Districts • Rural Communities (District Planning Commissions)
<p>Policy Instruments</p>	<p>Interdepartmental Coordinating Bodies</p>
<ul style="list-style-type: none"> • <i>Community Planing Act</i> • <i>Clean Water Act</i> • <i>Clean Environment Act</i> • <i>Crown Lands and Forest Act</i> • <i>Agricultural Land Protection and Development Act</i> 	<ul style="list-style-type: none"> • No special mechanism (coordination with environment achieved through creation of Department of Environment and Local Government; Sustainable Planning Branch)
<p>Plans and Approval Mechanisms</p>	
<ul style="list-style-type: none"> • Municipal Plans • Basic Planning Statements 	

The province would like to move toward setting performance standards for local governments to ensure that their plans respect provincial interests. Furthermore, the act does not take an ecosystems approach, although the Department of Environment and Local Government is mandated with the protection of air, water and land. The integration of environmental protection into planning legislation has been identified as a priority, and the province is moving toward a more integrated approach to planning and the environment. In future there may be more integration among the planning act and other pertinent legislation, particularly the *Clean Water Act* and the *Clean Environment Act*, to ensure the government's interest in land use and development is more clearly articulated. This would also include more stringent enforcement with regard to environmental issues and move the province towards an ecosystems approach in land use planning.

Priorities for change in the province's planning system, then, are:

- the adoption of an ecological systems approach to planning and resource management;
- greater autonomy at the local level (governance); and
- clearer articulation of the provincial intent (education).

These issues essentially reflect those highlighted by the CLURE report in 1993,⁵ and again in 1999 by the report of the Municipalities Act Review Panel.⁶

New Brunswick does not presently have provincial land use policy statements. This is seen as a major weakness in current provincial legislation. Such policies are, however, in the process of being developed around the following issues:

- Coastal Lands
- Flood Plains
- Commercial and Industrial Siting
- Clean Air
- Potable Surface Water and Ground Water Protection
- Municipal Restructuring
- Marine Resources
- Settlement Patterns
- Water Classification
- Pits and Quarries
- Water Export
- Local Governance
- Wetlands
- Protected Areas Strategy

Provincial land use policy has little impact on local government plans. Local governments indicated that the policies take a long time to develop and do not in the end always address the issues at hand. Furthermore, provincial departments do not always agree with the policies put forth by other departments, resulting in a lack of clear direction at the local level.

⁵The Commission on Land Use and the Rural Environment.[CLURE] (1993). *Final Report*.

⁶Municipalities Act Review Panel. (1999). *Opportunities for Improving Local Governance in New Brunswick*.

Process

Provincial legislation permits but does not require municipalities to prepare, adopt and administer Municipal Plans. All but three municipalities have adopted such plans, which must be approved by the province. In theory, Municipal Plans must be prepared in the context of regional plans, but no regional plans have been adopted to date. There are few consequences for local governments whose policies do not conform to provincial legislation. Although the Minister has the ability to withhold funds from a municipality that does not want to pay for planning services provided by the local District Planning Commission, this has never occurred. Lack of enforcement is due in part to the complex legal effort required to take someone to court, and the lack of will to do so. Currently there are no well-developed reporting mechanisms, though the government hopes to establish these within the next five years.

The province has 12 Planning District Commissions, representing approximately 40% of its population and 80% of its land area. Planning District Commissions may prepare municipal and rural plans for incorporated and non-incorporated areas within their jurisdiction. Plans have been prepared by only one of these districts (Beaubassin), which has adopted two municipal plans, and is currently preparing two rural plans for its non-incorporated areas. The Commissions are seen as an appropriate structure for the province, although a 1999 report found that Local Service Districts experience a lack of information and consultation by District Planning Commissions, leading to a widespread public distrust of the planning process in these areas.⁷

As in Newfoundland, non-incorporated areas are serviced by Local Service Districts (LSD). In New Brunswick, however, these units may also prepare Basic Planning Statements, although only seven of 291 LSDs have done so to date. Basic Planning Statements are non-elaborate policy statements that may be developed under the *Community Planning Act* for incorporated or non-incorporated communities. The Statements are prepared and adopted as provincial regulations by the Province. Basic Planning Statements in New Brunswick are now in the process of being replaced by Rural Plans, which are somewhat more elaborate, and the Rural District Planning Commission is drafting Rural Plans for all non-incorporated areas in the province.

The transition process from basic planning statements to rural plans is causing some problems, however. While rural plans are much more detailed, and thus more effective, it is often difficult to move from the basic planning statement to the rural plan since the area covered by the former does not coincide with municipal boundaries. Because there is no council to carry out the amendments, the province is left in charge of the process. Unfortunately, the province does not have the resources to carry out this process in a timely fashion.

Responding to recommendations made in the 1993 CLURE report, the province has established Rural Communities that join together several LSDs with similar interests and a willingness to work together. Rural communities differ from municipalities in that they are relatively large in size and population. Rural communities have a distinct rural character, land use is spread out, they are dominated by primary industries, environmental protection is an important concern and they are located within a District Planning Commission. Rural Communities can make local planning-related

⁷ Municipalities Act Review Panel. (1999).

decisions, with the support of the District Planning Commission. Rural plans are less elaborate than urban plans, and respond specifically to rural needs. The objectives/vision and strategies/zoning are contained in the same document, streamlining the legislation. Rural plans can be adopted and amended more quickly than conventional planning legislation. A Rural Community Committee's only decision-making power is the adoption and amendment of a land use plan for the Rural Community, but the model improves rural representation at the provincial level.

The Department of Environment and Local Government is the lead department with respect to land use planning. Other departments influential in this area include: the Department of Natural Resources and Energy; Business New Brunswick; and the Department of Agriculture, Fisheries and Aquaculture. Good interdepartmental coordination helps bridge gaps in governance, although areas such as forestry and agricultural practices could be better integrated. An integrated approach to environmental stewardship is currently being developed, focussing attention and combined expertise on the management of resources. A Sustainable Planning Branch has been established to guide this process. The new branch brings together the land use planning process and District Planning Commissions from the former Department of Municipalities, with the environmental planning components of the former Department of the Environment, including strong water and air protection responsibilities. The integrated approach may provide enhanced clarity for local governments, developers and the public.

Level of Coordination and Public Consultation

There is very little support from local governments and the public for provincial land use planning approaches, reflecting a lack of effective communication by the province regarding its interests in land use. Conflicts are often seen as the result of a lack of public understanding regarding the potential benefits of planning. As well, there is little direct contact between the province and local governments.

Governance Challenges

Governance is a major issue in New Brunswick, particularly in unincorporated areas, and in the fringe areas of major urban centres lacking adequate structures to control new development. Respondents reported a clearer distinction must be made between the urban fringe and rural environments. Differences in service needs and demands should be taken into consideration when determining what level of services are appropriate, how they should be paid for, and by whom. A Minister's Round Table on Governance recently examined the problem of governance in unincorporated areas. The Round Table found that most of the population in unincorporated areas lives in regions surrounding seven cities. Population growth in unincorporated areas is much greater than that in municipalities (approximately 80% and 20% respectively).⁸ To compound the problem, there is a steady out-migration of residents from municipal to unincorporated areas, a trend that will likely escalate in the future.⁹ Planning processes are not in place to accommodate this

⁸ Minister's Round Table on Local Governance.(2001). *A Vision for Local Government in New Brunswick*.

⁹ Municipalities Act Review Panel. (1999).

growth, leading to poorly managed development and increased land use conflicts, for instance between farming and ex-urban residential development. One widespread result is ribbon development along highways.

Co-operation between municipalities and LSDs has evolved over time through municipal-LSD servicing agreements. However, only about 20% of LSDs have land use plans in place, and many of these are not adequately detailed, leading to land use conflicts, loss of community character, decline in water quantity and quality and inefficient use of infrastructure and services. Land use planning in unincorporated areas is less pro-active than in other regions. Lack of human and financial resources can make it difficult to attract and retain planning staff. There is no formal mechanism to address inter-jurisdictional issues such as protection of water, land use conflicts and the protection of natural and agricultural resources, nor is there a structure to allow for a regional response. The report recommends the province provide local governments with adequate flexibility to act as they wish on matters within their own jurisdiction. This would enable local governments to take control over development within their boundaries.¹⁰

¹⁰ Minister's Round Table on Local Governance.(2001).

NOVA SCOTIA

Legislation

Nova Scotia's primary piece of land use planning legislation, the *Municipal Government Act* (MGA), was adopted in 1998 and is thus much more recent than legislation in Prince Edward Island. Furthermore, unlike New Brunswick, the legislation enjoys widespread support from municipalities and the public. Its popularity may be due to the level of autonomy and flexibility it grants municipal governments. For instance, the act allows municipalities to levy development charges on developers for capital projects necessitated by new subdivisions and provides increased latitude requiring parkland from subdividers. Some municipalities would like to see these powers expanded to enable them to implement charges for transit fleet expansion to serve new developments. The MGA also enables regional planning, and provides latitude in the content and wording of land use plans. However it was reported the act has limited scope to deal with environmental and conservation issues, as its current emphasis is on hazard protection and aesthetics.

Other important pieces of legislation are the *Environmental Assessment Act*, the *Shopping Centre Development Act*, and the *Agricultural Marshland Conservation Act*. Nova Scotia adopted *Statements of Provincial Interest*, complemented by *Implementation Guidelines*, in 1999 under the *Municipal Government Act*. Such statements are in place for drinking water, flood risk areas, agricultural land, infrastructure (water and sewer) and housing. Municipal planning strategies must be *reasonably consistent* with the statements. Thus, while municipal plans must respect the statements, they are allowed some flexibility in addressing local situations. The Minister may request council to adopt or amend a planning document to be consistent with the Statements of Provincial Interest. If council does not comply, the Minister may establish an interim planning area until the council adopts a plan consistent with the statements.

Key Highlights

- Planning Act provides considerable autonomy and flexibility for municipal governments
- Act has little scope to deal with environmental or conservation issues
- utilizes Statements of Provincial Interest, but these do not result in integrated planning at the provincial level
- the division of province into counties improves opportunities for regional planning
- perceived lack of integration/coordination at the provincial level

Primary Departments/Ministries Involved	Plans and Approval Mechanisms
<ul style="list-style-type: none"> • Service Nova Scotia and Municipal Relations • Environment • Natural Resources • Transportation and Public Works • Education • Agriculture and Fisheries • Tourism and Economic Development 	<ul style="list-style-type: none"> • Municipal Plans (Regional Councils) • Municipal Planning Strategies (Regional Councils)
<p>Policy Instruments</p> <ul style="list-style-type: none"> • <i>Municipal Government Act</i> • <i>Statements of Provincial Interest and Implementation Guidelines</i> • <i>Environmental Assessment Act</i> • <i>Agricultural Marshland Conservation Act</i> 	<p>Planning Areas (and Governance Bodies)</p> <ul style="list-style-type: none"> • Single-tier Municipal Governments (Regional Councils) • (also known as “Regional Municipal Government,” or “Counties”) <p>Interdepartmental Coordinating Bodies</p> <ul style="list-style-type: none"> • Ad Hoc Committees <p>Primary Dispute Resolution Mechanisms / Bodies</p> <ul style="list-style-type: none"> • Nova Scotia Utility and Review Board

One perceived drawback to the Statements of Provincial Interest, introduced to replace the original provincial policy statements, is that they do not result in integrated policymaking at the provincial level. Although the Statements of Provincial Interest allow the province to undertake a more careful administrative review of the municipal planning affecting its areas of interest, they do not engender integrated, interdisciplinary thinking at the provincial level, resulting in piecemeal provincial decisions which offer no overall leadership. They are also seen as potentially having a major impact on municipalities.

Process

Nova Scotia is divided into 18 counties, three of which are regional municipalities, and nine of which are rural municipalities. The remaining six counties are divided into two districts, each of which constitutes a municipality¹¹. The implementation of this system has greatly improved opportunities for regional planning. However, regional municipalities are not required to prepare official plans, which is a major weakness in the system.

¹¹Service Nova Scotia & Municipal Relations (2002). *Municipal Government in Nova Scotia*. Retrieved November 21, 2002 from <http://www.gov.ns.ca/snsmr/muns/info/history/MUNSTRUC.stm>

The single-tier governments are governed by Regional Councils, made up of councillors elected by direct popular vote. This stands in contrast to some regional governments, which are composed of officials appointed by the respective communities included in the region. Nova Scotia's Regional Councils have jurisdiction over region-wide and community planning policy, with zoning decisions devolved to Community Councils, which are formed from the regional councillors who represent the districts covered by the Community Council.

The creation of regional municipalities has greatly improved opportunities for regional planning. The Regional municipal government is an effective framework, as it is able to service a larger area. Municipalities have primary authority to prepare plans within their jurisdiction, allowing them to develop plans consistent with the urban and rural character of each region within the municipality. Municipal Planning Strategies (MPS) and land use bylaws must be "reasonably consistent" with provincial statements of interest. The province meanwhile, must consult with the relevant municipal plan prior to authorizing or carrying out development in a region.

Municipalities may collaborate with regard to planning by adopting a binding inter-municipal planning strategy. Municipalities can also develop secondary planning strategies for particular areas within their jurisdiction. The province may take steps to facilitate greater cross-municipal border planning or inter-municipal planning to address issues such as urban sprawl. The province should become much more involved in co-ordinating planning issues between municipalities.

Mechanisms to Resolve Conflict

Conflict may arise because not all municipalities have plans in effect, and no tools are in place to implement provincial policies without such plans. This situation can result in disparities between jurisdictions.

Land use conflict is resolved through the Nova Scotia Utility and Review Board's planning appeal process. The *Municipal Government Act* makes provision for mediation and reconciliation, but the Supreme Court has the final authority with regard to land use planning disputes.

Some municipalities stated that the right to appeal is very broad, which leaves the system open to abuse. The review board has a wider interpretation of its scope than would necessarily be interpreted from the legislated mandate. Municipalities were in favour of enabling joint hearings, to be conducted by different provincial departments. They were also in support of implementing a mediation process which might be more effective than the current adversarial appeal system.

Level of Co-ordination and Public Consultation

The Department of Service Nova Scotia and Municipal Relations (SNSMR) is the lead department with respect to land use planning. Other key departments are the departments of: Environment; Natural Resources; Transportation and Public Works; Agriculture and Fisheries, and Tourism and Economic Development. Government departments used to be coordinated by a Deputy Ministers' Committee on Land Use, which no longer exists, although such issues are often brought before the Deputies' Committees on Social Policy and Economic Policy. Today, issues are dealt with on a case-by-case basis, and departments are involved as required, based on their mandates and areas of

responsibility. As a result, ad hoc committees composed of representatives at the Manager or Director level are formed, and, based on the technical aspects of the case, staff are brought in as required. More consultation is needed for some provincial initiatives, particularly with regard to highways and transportation. The lack of integration between transportation and land use planning was highlighted as an area of difficulty, as were inter-departmental conflicts. Differing agendas between provincial parks and natural resource development were cited as one example. It was proposed that SNSMR should play a greater co-ordinating role between provincial departments for long-term planning issues.

Governance Challenges

Currently the province is pursuing a background study on urban development in rural areas. The study focuses on implications for service delivery and how people view such development. Non-resident land ownership is also an emerging issue that may be addressed through a study or policy change. Public access to coastal lands is driving this issue. There is also interest in watershed-based planning to protect water quality and drinking water, involving local groups in the process. Municipal governments noted that regional planning has helped to shape regions. However, it was noted by some that the province could show more leadership in promoting innovative tools and concepts, and allocating more resources to research. Some municipalities also indicated that the municipal-provincial relationships are strained by budget constraints, transfers of financial responsibility, and redistribution of property tax revenues to other municipalities by the province. Overall, however, it was said that provincial planning is moving in the right direction.

PRINCE EDWARD ISLAND

Legislation

PEI's popularity as a vacation destination has increased development pressures, often in the island's more environmentally sensitive areas. The *Land Protection Act* was brought into effect to maintain local control and stewardship of the lands by limiting the amount of land that can be held by a single person or corporation, in recognition of problems associated with absentee landlords.

Prince Edward Island's (PEI) *Planning Act* is relatively dated, having been introduced in 1974 and last updated in 1988 when it enabled the creation of provincial land use policies.

There was an impressive amount of activity in the early 1990s, after the province's land use policies were developed. The act is now considered by some to be inadequate to its purpose and in need of review. The province, however, is not at present considering any major changes to its planning system.

There is a need for an integrated land use act, and some thought has been given to combining the *Planning Act* and *Municipalities Act*. Because other acts affecting land use and development are administered by different departments, it can be difficult to administer land use planning efficiently. Other important pieces of legislation affecting land use planning include the *Land Protection Act*, *Environmental Protection Act*, *Roads Act*, *Natural Resources Protection Act*, and *Real Property Assessment Act*.

Both cities in PEI (Charlottetown and Summerside) have their own municipal act, granting them more autonomy than other communities enjoy.

PEI has a number of provincial land use policies in place. Developed between 1991 and 1993, many are somewhat out of date. No major policies have been created since that time, possibly due to downsizing and budget cuts, limiting the ability of the departments to create, administer and enforce new policies. The following policies are in effect:

- Comprehensive Provincial Land Policy
- General Land Use Policy
- Coastal Development Policy
- Road Access Policy
- Identification of Lending Agency Lands Policy
- Fixed Link Development Policy

Key Highlights

- the need for an integrated Planning Act
- lack of adequate land use controls in non-incorporated rural areas
- province creates Special Planning Areas to address particular land use issues
- conflict resolution, mediation and pre-hearing conferences have become key dispute resolution mechanisms
- some performance measures in place

- Planning Act Minimum Requirements for Municipal Official Plans
- Province-wide Minimum Development Standards

Primary Ministries / Departments Involved	Plans and Approval Mechanisms
<ul style="list-style-type: none"> • Community and Cultural Affairs • Agriculture and Forestry • Fisheries, Aquaculture and Environment • Transportation and Public Works • Tourism 	<ul style="list-style-type: none"> • Municipal Plans • Special Area Plans
Policy Instruments	Planning Areas (and Governance Bodies)
<ul style="list-style-type: none"> • <i>Planning Act</i> • <i>Municipalities Act</i> • <i>Land Protection Act</i> • <i>Environmental Protection Act</i> • <i>Roads Act</i> • <i>Natural Resources Protection Act</i> • <i>Real Property Assessment Act</i> • <i>Population Strategy</i> • <i>Sustainable Development Strategy</i> • Provincial Land Use Policies 	<ul style="list-style-type: none"> • Municipalities (Municipal Council) • Special Planning Areas (Provincial Government) • Non-incorporated (rural) Areas (Provincial Government)
	Interdepartmental Coordinating Bodies
	<ul style="list-style-type: none"> • Land Use Coordination Committee
	Primary Dispute Resolution Mechanisms / Bodies
	<ul style="list-style-type: none"> • Island Regulatory Appeals Commission

Process

Municipalities are not required to prepare official plans. Municipal Plans must be consistent with provincial land use and development policies and regulations, used as guidelines or minimum standards. Municipalities retain the ability to create more stringent standards if they wish (in this sense, PEI differs from Alberta, where the province disallows this). Municipal plans are required to include a number of elements, but these are quite broad allowing for flexibility at the municipal level. Only 8.7% of provincial land falls under the jurisdiction of municipalities with a development plan, with the remaining 91.3% falling under provincial control.

It is difficult to assess whether municipal plans adequately respect provincial land use policies. The Department of Community and Cultural Affairs reviews the various municipal plans, amendments and bylaws to ensure that they conform to provincial standards. Furthermore, all such legislation must be approved by the Minister. The focus of the approval process is quite narrow, and merely ensures the planning process was followed correctly and that the plans do not contain any provisions that conflict with a provincial interest.

The Department of Community and Cultural Affairs is responsible for land use planning in the non-incorporated areas of the province, accounting for 70% of the provincial land base and 30% of the population. In these areas, agriculture is a major issue. Future land use needs are not typically considered in planning for rural (unincorporated) areas, and most do not employ zoning. Zoning in rural areas is very basic, in many cases ill-defined, and often not enforced. Rather, tools such as site, development and building controls are used to regulate land use in these areas. A Round Table on Resource Land Use and Stewardship (1997) noted the difficulty of using zoning to regulate rural land use, since it tends to be either too detailed to allow for customary rural growth and development, or too broad to have any meaningful effect. The report also notes that strong resistance to zoning is prevalent in many rural areas. Still, agricultural zoning is acknowledged as an effective way to reduce conflict between agricultural and non-agricultural areas, and the report recommends developers be required to set aside buffer zones between their developments and agricultural lands to minimize conflict.¹²

The province piloted the concept of Special Planning Areas (SPAs) in 1991 with the Coastal Protection Area, which was to be in effect until a coastal policy could be developed. The introduction of this mechanism resulted in a number of amendments to the *Planning Act*, including:

- enabling planning areas to include incorporated as well as unincorporated areas;
- establishing primacy of provincial land use policy (i.e. over such areas); and
- permitting the province to evaluate major developments in terms of land use, environment and provincial costs, while relaxing the former market impact evaluation as a requirement for provincial approval.

The province can now create Special Planning Areas (SPA's) for a number of purposes. The province may designate these areas and set up a program, public information and regulations. When the province amalgamated 20 municipalities into four in the mid-1990s, it designated the areas around the four newly amalgamated municipalities as SPAs, allowing them to introduce special land use regulations to curb the problem of strip and leapfrog development. This approach has proven very successful and has allowed the municipalities as well as the adjacent and surrounding communities to grow at their traditional rates. SPA's have been used to control fringe development around Charlottetown, Summerside, Borden-Carlton and Greenwich (near the island's national park).

Mechanisms to Resolve Conflict

Presently, municipal bylaw enforcement is inadequate, and few breaches of provincial policy are taken to court. Many disputes are resolved through alternative dispute resolution methods or other types of negotiations. Levels of compliance have improved as local governments are better informed of the policies and regulations governing land use and development.

¹²Round Table on Resource Land Use and Stewardship (1997). *Cultivating Island Solutions*.

Most land use disputes are resolved through the Island Regulatory Appeals Commission (IRAC). However, dispute resolution, mediation and pre-hearing conferences are also used. Pre-trial hearings in particular are presently being encouraged as a method of resolving conflict. Mediation has also worked in some instances. However, alternative dispute resolution processes have not become major components of the appeals process to date.

The appeal process requires some restructuring. Presently the appeal process is used frequently for very minor issues, and has also been used to delay large projects proposed by competing developers. There needs to be better definition of what may be appealed and the appropriate time frame for appeals.

Level of Coordination and Public Consultation

The province has not clearly defined its interests in local matters, and municipalities have at times resisted new provincial policies when they were first introduced. Still, the department has a close relationship with the municipalities and consults with the province's Federation of Municipalities when new policy is being developed. In addition, the federation meets with the Minister twice a year (or more, as needed) to discuss policy issues. Because the island is small, consultation is easy to conduct and occurs often. The federation usually reviews draft policies and has an opportunity to comment on them. The department also holds a number of public meetings in communities regarding policy matters, and consults with special interest groups. One municipality, however, responded that the province does not provide adequate feedback while plans are being prepared, resulting in needless delays at the approval stage.

The *Planning Act* permits municipalities to take innovative approaches in addressing local planning issues. They must, however, produce a municipal plan and follow a standard process to ensure there is adequate public involvement and conformity with provincial guidelines. In general, municipalities enjoy a high level of autonomy.

PEI is among the only provinces with some form of performance measures in place. The province had undertaken a significant level of monitoring in the past, but has scaled back its activities substantially due to shortages in budget and staff. The effectiveness of some initiatives, such as Special Planning Areas (SPAs), is still being measured.

A substantial number of reports have influenced land use planning in PEI over the years. Among the most important are the Royal Commissions of 1973 and 1990, the Provincial Population Strategy, the Provincial Sustainable Development Strategy, the *Sustainable Agricultural Strategy* (January 2001), and the *Report on Trends In Non-Resident Land Ownership 1994-2000*.

Many departments in PEI have some interest in land use. The connection between land and human activities may be particularly evident to policy makers in PEI. For the past 10 years, a Land Use Coordination Committee (LUCC) has been in place to provide a forum for civil servants to review and discuss land use issues as they arise. LUCC is composed of representatives from seven government departments, and is led by Community and Cultural Affairs. The committee meets on a fairly ad hoc basis and is currently under review, but it should be more responsive to emerging issues. Municipalities also believe that provincial departments could be more closely coordinated to ensure that policies are complete and wide-ranging. Still, there is some agreement that there is

sufficient coordination between government departments in general: municipal and provincial planning organizations share the same office, and LUCC further facilitates inter-departmental coordination. Task forces may also be formed to address specific issues, and usually consist of members of various departments as required.

Legislation

Newfoundland adopted new planning legislation in January 2001, following a major review of all municipal legislation. The act was revised with a view to shortening the approval process and minimizing provincial involvement in local planning matters (to review only for consistency with provincial policy and legislation).¹³ The *Urban and Rural Planning Act* provides for “the development of provincial land use policies, the undertaking of regional planning at the local level, and greater autonomy to municipalities for the development and approval of their own planning policies.” However, a Provincial Land Use Policy is not yet in place. Under the act, municipalities are not required to prepare official plans; however, if they do create plans, they must be done in accordance with the legislation.. The new legislation also enhances the quality of the local decision-making process by requiring municipalities to engage in public consultation in developing planning strategies and implementing development regulations.

Key Highlights

- provincial land use policies and regional approaches to planning under development
- plan to delegate more autonomy to municipal level
- provincial interests not clearly defined
- ability to create regional planning tools and frameworks but not consistently used
- single-window approach to consultation

The *Urban and Rural Planning Act* is very flexible and sets only minimum requirements for municipal plans. It grants municipalities more latitude and autonomy than did previous legislation, in part to accommodate both larger and smaller communities within the same act.¹⁴ While the changes made to the planning legislation are welcome, it remains underdeveloped in many respects. The act includes few planning tools aside from zoning, but does require municipalities to address specific issues, while stating that others are optional. Furthermore, the act stipulates a number of provisions, for instance regarding integrated resource management (IRM), which, according to respondents, are not often practised.

¹³Newfoundland Department of Municipal and Provincial Affairs. (1997). *Urban and Rural Planning Act Review: Review Committee Report*.

¹⁴Newfoundland Department of Municipal and Provincial Affairs. (1997).

Although Newfoundland has no provincial land use policies at present, it uses provincial interest statements to guide the evaluation of local plans and potential development. Initiatives are currently underway to develop provincial policies on watershed protection, coastal zone management,

<p>Primary Departments/Ministries Involved</p> <ul style="list-style-type: none"> • Municipal and Provincial Affairs • Forestry and Agri-Foods • Mines and Energy • Environment • Tourism and Culture • Government Services and Lands 	<p>Planning Areas (and Governance Bodies)</p> <ul style="list-style-type: none"> • Municipal Planning Areas (Municipal Council) • Local Planning Area (*) • Local Protection Area (Municipal Council) • Regional Planning Areas (Council, Individual or Group) • Unincorporated Areas (*)
<p>Policy Instruments</p> <ul style="list-style-type: none"> • <i>Urban and Rural Planning Act</i> • <i>Environmental Assessment Act</i> • Provincial interest statements • <i>Lands Act</i> 	<p>Interdepartmental Coordinating Bodies</p> <ul style="list-style-type: none"> • Single window approach , led by the Department of Municipal and Provincial Affairs • Interdepartmental Committee on Land Use (meets infrequently, ad hoc)
<p>Plans and Approval Mechanisms</p> <ul style="list-style-type: none"> • Local Area Plans for unincorporated areas (provincial approval required) • Municipal Plans (approved by municipality) • Regional Plans (may be designated by Minister, provincial approval) 	<p>Primary Dispute Resolution Mechanisms / Bodies</p> <ul style="list-style-type: none"> • Appeal Boards designated by province • Appeal Boards designated by municipalities (Corner Brook, Mount Pearl and St. John's)

wetlands, minerals and settlement. These policies are being developed jointly by the Department of Municipal and Provincial Affairs and other departments.

Overall, legislation focuses on resource issues such as watershed protection, coastal zone management, and protection of wetlands. Legislation is not strong with respect to settlement issues such as sprawl and waste management, and there is a pronounced division between municipal areas and unincorporated (i.e., Crown) land, the latter being rather more carefully regulated.

Process

While Newfoundland's planning legislation is broad enough to address important land use issues (watershed protection and settlement policy), active engagement with these issues is not currently taking place. Legislation is not, for instance, able to address urban sprawl, which is currently among the most important issues in areas surrounding the province's larger centres.

Local governments reported that the province is very helpful and works well with communities. At the same time, it was noted that where provincial policy conflicts with municipal aspirations, the province usually grants the municipality permission to proceed.

Municipalities are not required to prepare official plans. Required components of local plans are essentially limited to zoning. Municipal plans must be reviewed by the Department of Municipal and Provincial Affairs and be registered by the province to ensure protection of provincial interests. However, these interests are not clearly defined as no official land use policies have yet been developed.

Municipal councils have sole jurisdiction over all lands within municipal boundaries. The Minister may also grant them additional powers over adjacent lands by declaring it to be a Local Planning Area or a Protection Area. Local Planning Areas are designated "...based upon public convenience and general welfare, economic use of the land, improved facilities for traffic, transportation, sewage disposal, water supply, schools, parks and recreation and other public requirements..." (Urban and Rural Planning Act c U-8 s31 (2), 2000). Protection Areas, by contrast, are declared to preserve areas "...of natural beauty or amenity..." (Urban and Rural Planning Act c U-8 s31 (1) b, 2000). Newfoundland is the only province or territory with such legislation in place, indicating an unusually flexible approach to urban boundaries.

The Minister may also form Regional Planning Areas upon request. Where regional planning areas are formed, the Minister designates a council, individual or group as the planning authority. Regional planning authorities must consult with affected municipalities in developing a regional plan.

Although Newfoundland has a number of useful tools available to engage in land use planning, including the ability to create regional planning areas and local protection areas, these are not consistently utilized. Rather, they come into effect through a specific request made to the Minister. As a result, the level of stringency in land use planning depends greatly on the local government's commitment to the process. The province relies heavily on educating municipalities to ensure proper implementation of its policy, but employs few tools to ensure that this occurs.

Mechanisms to Resolve Conflict

When applicants are dissatisfied with the decisions made under the provision of a Plan or Development Regulation, appeals may be made to a provincial Appeal Board designated by the Minister, although the cities of Corner Brook, Mount Pearl and St. John's have their own appeal boards.

Level of Coordination and Public Consultation

The Department of Municipal and Provincial Affairs is the lead department with respect to land use planning in Newfoundland. Other influential departments in this area include: Forestry and Agri-Foods; Mines and Energy; Environment; Tourism and Culture; and Government Services & Lands. The province takes a single-window approach to coordinating land use activities, and municipalities access other departments through the Department of Municipal and Provincial Affairs rather than consulting them directly. An interdepartmental committee is also in place, but meets infrequently and on an ad hoc basis.

Governance Challenges

Governance challenges were identified as Newfoundland's most important planning issue at present. The three major areas of concern were the need for:

- more effective cooperation among municipalities;
- the lack of local government of any kind in unincorporated areas; and
- better integration of rural and urban areas by developing policy that addresses the concerns of both.

Little, if any, planning currently takes place in Newfoundland's unincorporated areas (which comprise over 90% of the province's land mass, but represent less than 2% of its population). Most communities in this area are served by Local Service Districts (LSD), and some municipal boundaries have been expanded to absorb adjacent unincorporated areas. The present planning units (municipalities) are appropriate in terms of settlement and service provision, but are not based on ecosystem or natural boundaries, limiting their utility as planning units. While it has been recommended that communities cooperate on a regional basis,¹⁵ some rural municipalities are concerned that if this were to take place, the issues of urban municipalities would be given precedence over theirs.¹⁶

Governance issues aside, the environment (specifically water quality), urban sprawl and waste management are currently the most influential factors shaping the direction of land use planning in Newfoundland. Priorities for change in the province's planning system are to restructure local government, to develop provincial land use policies and to establish a regional planning program. The province is likely to move toward these objectives in future.

BRITISH COLUMBIA, ONTARIO AND QUEBEC

While British Columbia is geographically isolated from Ontario and Quebec, these provinces share

¹⁵Newfoundland Department of Municipal and Provincial Affairs. (1996). *Reforming Municipal Government in Newfoundland and Labrador: The Time for Regionalization*. Retrieved November 21, 2002 from <http://www.gov.nf.ca/mpa/publicat/regional/regions.htm>

¹⁶Task Force on Municipal Regionalization. (1997). *Final Report*.

a number of important characteristics that justify, for the purposes of this study, their treatment as a group. Seventy-five (75) percent of Canada's population resides in these three provinces,¹⁷ and the major cities – Toronto, Vancouver and Montreal – are Canada's three largest urban centres. These three provinces experience some of the most intense population pressures in their densely settled regions, and face the challenge of developing legislation which is suitable for their sparsely-populated resource-based hinterlands, as well as large urban agglomerations. It should come as no surprise, then, that these provinces are in many ways the most concerned about settlement issues, and actively engaged in this area of land use planning. Each of these provinces presents a unique case study of how different government philosophies and approaches may be applied to land use issues that are common to all three.

BRITISH COLUMBIA

Legislation

Numerous statutes govern land use planning in British Columbia. Chief among them is the *Local Government Act* (LGA 2000), which governs planning at the municipal and regional level for all local governments in the province. The exception is the City of Vancouver, which is governed by the *Vancouver Charter* (1953), a statute that does not require an official plan to be adopted. However, the City has applied many policies that are similar in content to official community plans, as well as a regional context statement to illustrate how the city's policies respond to regional goals. One problem is that the city has not brought all its policies together in one document. Amendments to the *Vancouver Charter* have ensured Part 25 of the former *Municipal Act* (now the LGA), containing the Growth Strategy Act provisions, applies to the City of Vancouver.

Key Highlights

- Regional Growth Strategies (RGS) encouraged by province in areas with significant growth and development must be comprehensive, with long-term planning horizon
- province is currently developing Provincial Policy Guidelines
- strong emphasis on consultation, consensus-building, facilitation, mediation and arbitration
- strong environmental measures in place, integrating land and water planning
- *Island Trust Act* provides environmental protection to Trust Area

¹⁷Statistics Canada. (1996). Canadian Census Data.

<p>Primary Departments/Ministries Involved</p>	<p>Plans and Approval Mechanisms</p>
<ul style="list-style-type: none"> • Ministry of Community, Aboriginal and Women’s Services (CAWS) • Ministry of Transportation • Ministry of Agriculture, Food and Fisheries • Ministry of Water • Ministry of Water, Land and Air Protection • Ministry of Sustainable Resource Management 	<ul style="list-style-type: none"> • Official Community Plan (provincial approval only for electoral areas) • Regional Growth Strategies (adopted by the regional board and approval by all local governments in region, and the board of each adjacent regional district; province participates but does not approve decisions).
<p>Policy Instruments</p>	<p>Planning Areas (and Governance Bodies)</p>
<ul style="list-style-type: none"> • <i>Local Government Act</i> • <i>Municipal Act</i> • <i>Vancouver Charter</i> • <i>Land Reserve Commission Act</i> • <i>Forest Reserve Lands Act</i> • <i>Environmental Land Use Act</i> • <i>Heritage Conservation Act</i> • <i>Islands Trust Act</i> • <i>Agricultural Land Commission Act</i> • <i>Fish Protection Act</i> 	<ul style="list-style-type: none"> • Municipalities (Locally elected Councils) • Regional Districts (Regional Boards; includes representation from municipal and electoral areas)
	<p>Interdepartmental Coordinating Bodies</p>
	<ul style="list-style-type: none"> • Deputy Minister’s Committee on Natural Resources and the Economy • Intergovernmental Relations and Planning Division, Ministry of Community, Aboriginal and Women’s Services
	<p>Primary Dispute Resolution Mechanisms / Bodies</p>
	<ul style="list-style-type: none"> • Mediation

The LGA has substantially expanded the authority and autonomy of local governments, while at the same time making it more accountable to the public.

In addition to reshaping the LGA, the province is looking at the possibility of implementing a Community Charter. A Community Charter Council has been struck to bring forward new legislation for Spring, 2002. A Community Charter would replace the *Local Government Act*, and the province is proposing that performance measures be part of the package. The nature of these

measures has yet to be determined. It was noted on another occasion that the lack of performance measures was a major flaw in the current planning system.

The *Land Reserve Commission Act* (affecting agricultural land), *Land Act*, *Forest Act*, *Water Act*, *Mineral Act*, *Wildlife Act*, *Forest Reserve Lands Act* and *Environmental Land Use Act* are other important statutes, dealing primarily with Crown lands. Other important pieces of legislation affecting land use planning in British Columbia (including the *Heritage Conservation Act*, *Islands Trust Act*, *Agricultural Land Commission Act*, and *Fish Protection Act*) are often interrelated with these statutes and with each other.

As at least one respondent noted that there is a lack of effective coordination among ministries. The province tends to create isolated line ministries and commissions with independent legislative authorities and powers that often overlap with the interests of other agencies and local governments, creating a system greatly in need of streamlining. In fact, the need for streamlining was an issue raised by many of the respondents.

Official Community Plans (OCPs) may be created for both municipalities and electoral (unincorporated) areas, but are not required by the province, except in particular circumstances. Excepting OPC's for electoral areas, provincial approval is not required for municipal OCP's, while OCP's adopted for unincorporated areas of regional districts currently require provincial approval. All adopted OCP's must provide for residential development, other land uses (i.e. commercial, industrial, institutional, agricultural, forestry, recreational), sand and gravel deposits, hazards, major roads (transportation generally), sewer, water systems and public facilities. They must also include elements of social planning such as affordable housing. In developing OCP's, municipalities must solicit comment from the regional district, adjacent municipalities, provincial and federal agencies, and other public authorities. If a Regional Growth Strategy is in place for the area, Municipal OCP's must include regional context statements.

Until recently, British Columbia provided for the creation of Rural Land Use Bylaws for designated areas outside of municipalities, recognizing that the detailed requirements of OCPs may not be appropriate in the rural context. The new LGA has cancelled the ability to adopt such bylaws, but provides regional districts with a full set of tools to custom design bylaws to fit the character of the area, whether it be rural or urban.

Regional Growth Strategies (RGS) are developed for areas experiencing significant population change, economic development or growth, or development involving coordination between local governments or affects more than one local government. RGSs are intended to avoid urban sprawl, protect environmentally sensitive areas and set aside adequate land and resources for future population growth. An RGS primarily addresses housing, transportation, regional district services, economic development and parks and natural areas. Regional strategies guide decisions and must cover a period of at least 20 years. They must include: social, economic and environmental objectives; population and employment projections; and actions proposed to accommodate housing, transportation, regional services, parks and natural areas, and economic development. Nevertheless, the regional growth strategy process is considered by some local governments to be too time-consuming because the legislation is purely enabling and does not set out clear

expectations as to the product or process. Clarifying areas of legitimate regional interest and setting benchmark expectations in terms of time efficiency was seen to be beneficial.

Regional Growth Strategies endeavour to incorporate interests of all participants (including local government and provincial agencies) in the process, through representatives on an Intergovernmental Advisory Committee (IAC), including senior local and provincial government staff, to ensure coordinated provincial input into the strategy. The Minister of Community, Aboriginal and Women's Services appoints the provincial staff to the IAC, a required element of the RGS process. When an RGS is initiated the board must establish an Intergovernmental Advisory Committee. The role of the IAC is to advise a regional district on the development of an RGS and to help coordinate provincial and local government actions, policies and programs as they relate to the strategy. The IAC facilitates communication between these levels of government.

Adoption of an RGS requires a regional district board to ensure that all bylaws and decisions regarding services are consistent. It does not, however, authorize any specific project to proceed. RGSs must be monitored, with annual reports submitted for periodic review. The Minister may establish policy guidelines regarding the process for adoption and content of RGS's and OCPs as to their content.

The provincial ministries involved in planning in British Columbia are the Ministries of: Community, Aboriginal and Women's Services; Agriculture, Water, Land and Air Protection; Forests; Transportation; and Sustainable Resource Management. There was a perceived lack of co-operation among these departments, with each Ministry implementing its own review process. Coordination tends to occur through offices dealing with a specific type of land use or region, such as the Intergovernmental Relations and Planning Division of CAWS. The lack of an overall coordinating body with the appropriate power and authority constitutes a major weakness in the system, in some cases resulting in independent and narrow decision-making. In some cases, local governments reported that they were caught between competing provincial mandates (such as Environment and Agriculture). This could be ameliorated through the formulation of clear provincial policies.

British Columbia does not currently have a comprehensive set of provincial land use policies in place, although the province appears to be moving towards adopting such tools (in the form of Provincial Policy Guidelines). Instead, the province presently uses a number of different mechanisms to guide land use decisions, including its Protected Area Strategy, Regional Growth Strategies, Land and Resource Management Plans (LRMPs), and Agricultural and Forest Land Reserves. Where explicit provincial policies exist they are applied vigorously. On the other hand, some stated that the process is less coordinated and more ad hoc where there are strategic guides rather than a complete set of goals. A clearer indication of provincial interests would be useful to guide their local planning process.

The RGS and LRMP processes are largely separate, and as such the goals of RGSs are not adopted for Crown land; however, local government participated in the development of LRMPs.

Under the auspices of the LGA, the province has begun to develop Provincial Policy Guidelines to highlight provincial goals and detail their implementation. A number of provincial policies do exist (for instance, how to dispose of Crown land), and these must be taken into consideration by local

government in developing or amending their OCPs or RGSs. Guideline use is seen as a potential tool to articulate provincial interests in local land use planning, and could pave the way for repealing the legislative requirements for OCP content. Strategic policy guidelines are being developed for a range of provincial economic, social and environmental/resource interests, as are interest-specific policy guidelines to provide more detailed guidance to local governments regarding urban fringe and municipal boundary issues. The guidelines are being developed in consultation with provincial ministries and agencies, as well as the Union of BC Municipalities.

Most provincial respondents stated that provincial land use legislation is highly effective in its chosen role of enabling local governments. Planning legislation was considered particularly effective in terms of environmental protection (the decisions of the Environmental Land Use Coordination committee override other land use decisions), and the protection of forests and agricultural land (where the province plays a more direct role through its Agricultural Land Reserves).

Process

As in Alberta, British Columbia has two highly differentiated streams for land use planning. Crown and public lands have separate planning processes intersecting primarily at the higher levels within the provincial government. The Land Use Coordination Office (LUCO) oversees much of the Crown land resource planning, while the Intergovernmental Relations and Planning Division in the Ministry of Community, Aboriginal and Women's Services facilitates and supports the development of local government regional growth strategies. Both streams require significant public consultation, and endeavour to develop consensus around plans rather than to force decisions upon governments. The intent is to encourage the use of alternative dispute resolution mechanisms, support the delegation of increased planning/decision making from the province to local areas/governments, and to require consultation with the Union of BC Municipalities (through Memoranda of Understanding) on many fronts. There is still some debate as to the appropriate balance between flexibility (i.e., voluntary compliance), and regulation.

The planning of public land is primarily the responsibility of local jurisdictions, with a minimal provincial role. Crown lands are governed directly by the provincial government, with decision-making powers at three levels:

- the provincial level (set policies and directives to guide integrated planning processes);
- the strategic level (LRMPs cover large areas establishing broad land use zones, management strategies and objectives to guide operational planning); and
- the local level (normally encompasses watershed areas, and provides detailed resource management direction).

There is no requirement for any plan to be subordinate to a broader-level plan. However, implications for other levels are to be assessed in each plan.

British Columbia has two orders of local government: municipalities (154) and regional districts (27). Regional districts are "consensual governments" with few mandated responsibilities. In high-

growth areas, their major functions include service provision and growth management. They provide a forum for municipalities to collaborate on issues of mutual interest or concern and provide local government services in unincorporated areas. Regional districts were created to provide local government to unincorporated areas (called electoral areas), and their boards are made up of both elected directors from unincorporated areas, and appointed directors from municipal councils. Thus, while British Columbia has unincorporated territory, they are all part of regional districts and are therefore part of a formal local government structure. A system of weighted voting is used to ensure that population numbers are taken into account in decision-making processes.

The approach to policy implementation in British Columbia differs in important respects from that found in other provinces and territories. With only a few exceptions, the province has, over the last decade developed processes to achieve consensus, rather than emphasizing enforcement. For instance, rather than taking a punitive approach to jurisdictions which do not have an OCP or RGS, the government has simply provided more technical and financial provincial support to those with plans addressing provincial concerns. The province tends to enable local areas to solve problems, rather than prescribe methods for dealing with particular issues, although there is some debate as to whether this constitutes effective practice. Planning is goal-oriented rather than process-oriented, and financial incentives and funds are used to help local governments carry out provincial interests. Some legislation (such as the forest and agricultural land reserves) require mandatory enforcement. These, however, are the exception.

The province emphasizes local autonomy where possible. The City of Vancouver, the province's major urban centre, indicated that it seldom works with provincial officials, and that elements such as transportation planning initiatives can be undertaken without provincial approval. The City deals primarily with Ministries or Crown Corporations building mega-projects in the city. The City also has a relationship with BC Housing and other social agencies for social housing and other community service funding. However, the City indicated that these relationships have relatively little to do with land use planning.

In other jurisdictions, where an RGS is in place, OCPs areas do not require provincial approval, but rather are approved by the regional board that ensures it conforms with the regional plan.¹⁸ There is a need to develop a mechanism to improve interaction between the province and local government for jurisdictions where no RGS is in place.

Land use planning is coordinated through legislative references to other acts, as well as a number of bodies which oversee the various pieces of legislation. Among these, the Assistant Deputy Ministers and Deputy Ministers Committees on Land Use and the Land Use Coordination Office (LUCO) are the most important. LUCO develops policy for, coordinates and supports all aspects of strategic land use plans (LRMPs, which were formerly CORE regional plans), while the Ministers involved with Crown land and resource issues set broad provincial land use policy, and attempt to coordinate the administration of inter-ministry land and resource planning and policy. Meanwhile, the Growth Strategies Office (GSO) in Municipal Affairs helps to coordinate planning at the local

¹⁸Only Ministry of Community, Aboriginal and Women's Services approvals are waived. The Ministries of Agriculture, Fish and Food, Lands and Parks, and Transportation and Highways Lands Branch retain approval authority.

government level, assisting regional districts to develop their RGSs.

A committee of senior government officials has been created as part of the provincial government's growth strategies initiative. The committee is a way for the provincial government to follow through on its commitment to develop clear unifying and, reliable positions in regional district-led strategies. The committee is chaired by the Deputy Minister of Municipal Affairs and consists of deputy ministers and senior officials from six other Ministries.¹⁹ Part of the committee's mandate is to ensure appropriate linkages between growth strategies and provincial planning initiatives such as the Land and Resource Management Plans (LRMPs).

Mechanisms to Resolve Conflict

In British Columbia, conflict resolution is based on the principles of consensus and facilitation. Departments themselves favour a consultative, supporting role rather than a reactive one. There is a strong role for mediation and arbitration, as well as informal consensus-building prior to tendering a proposal, approaches emphasized in the interest statement of the LGA.

In the interactive planning system introduced by the *Growth Strategies Act* (now part of the LGA), regions must gain municipal "acceptance" of proposed growth strategies and municipalities must achieve regional "acceptance" of their regional context statement. If they can't agree, they must attend a mediation process to resolve their differences.

If an impasse is reached between a municipality and a regional district and the municipality has formally objected to a proposed RGS, the legislation provides a number of ways to resolve the issue. The legislation says that municipalities can be fully involved in any dispute resolution process, whether or not they themselves have objected to a proposed RGS.

Where a municipality has objected to a proposed RGS and has been directed to a non-binding or a binding process, the municipality and the regional district (and any other local governments that have objected) are responsible for choosing which type of process should be used. Only when they fail to agree on the choice of process does the Minister become involved. The municipality will also, of course, participate in the process. A municipality that has accepted a proposed RGS may nevertheless have an interest in the outcome of a non-binding or binding process involving, for example, a neighbouring municipality and the regional district. The legislation allows that any municipality has the option to participate in these processes. The minister has no direct role in resolving the dispute, but rather directs parties to the most appropriate process for the issues and circumstances.

It was noted that there is no appeal process between the province and local governments. However, one is being proposed in the new legislation for Community Charters.

¹⁹Agriculture and Food; Employment and Investment; Environment, Lands and Parks; Municipal Affairs; Small Business, Tourism and Culture; and, Transportation and Highways.

Level of Coordination and Public Consultation

The local government must determine the most appropriate method of consulting with those who could be affected by the RGS or an OCP. Groups to be consulted include: citizens, affected local governments, First Nations, School Districts, Greater Boards and Improvement District Boards, Provincial and Federal Governments and their agencies. In the new consultation requirement input will be obtained from those to be affected by an OCP or RGS early in its development.

The province balances protection of provincial interests and flexibility to accommodate different local situations through extensive consultation and dialogue between the provincial and local levels of government. The province has sought to develop guidelines creating understanding of provincial interests, while recognizing regional differences. Most provincial land use legislation is enabling, rather than prescriptive, with certain notable exceptions, such as the agricultural land reserve and fish protection. The province, recognizing the diverse needs of the various regions within its borders, prefers to work with local governments to understand and accommodate local and regional interests.

While the province says local government consultation is an integral component of its planning strategy, some local governments suspect that the province has usually determined its position prior to the consultative process, and local government has little actual influence in shaping the direction of planning in the province. The level and quality of provincial feedback depended to some degree on the type of local government involved. One respondent believed that feedback given to OCPs was generally weak.

Some respondents did not believe that the process is highly integrated. At times there is effective coordination at the higher levels, but not at lower ones. Structures such as RGS and LUCO are effective at facilitating linkages. While the system may look somewhat chaotic, it works well. The effectiveness comes not so much from the legislation, but from people willing to tackle issues. Institutional fragmentation has been reduced through institutions such as LUCO and CORE, established in the early 1990s, making the process more centrally coordinated. There is loose coordination between municipalities and the province, but high levels of coordination among local governments and between local (regional) governments and the province. LUCO has provincial and regional representation, and created an Inter Agency Management Committee (IMAC) which meets monthly to sort out issues and open the lines of communication.

Public and local government support of provincial land use planning approaches appears to be reasonably high. Transparency in the process is an important element in building public trust.

Governance Challenges

There is a pronounced difference between land use issues in urban (settlement) and rural (resource) regions. British Columbia has both very high-growth areas, and low growth regions with limited economic opportunities, resulting in challenging disparities in settlement issues. The province also has many distinct eco-regions, affecting the types of resource issues that emerge. For instance, oil and gas are a major concern in the northeast, while in the northwest sparse population is an important issue. In the Okanagan Valley and on the east coast of Vancouver Island the conflict

between conservation and development is heightened. At least one local government noted that there is a major difference between settlement patterns, resource interests and public policy, with little co-ordination or engagement evident at the provincial level. There is a marked difficulty in ensuring adequate flexibility to address regional diversity, while providing a framework for sufficiently detailed plans (i.e. forestry and tourism).

British Columbia has undertaken a large-scale overhaul of its provincial land use planning legislation, involving radical changes to planning processes. While this ambitious restructuring has been heralded by many as ushering in a thoroughly contemporary and effective approach to land use planning, others have some doubts to its ultimate effectiveness. While the processes put in place are valid and have high potential, more funding is needed to support them if provincial goals are to be met. The multi-stakeholder approach was considered by some to be too costly and time-consuming. Planning processes need to be made more business-friendly, particularly through better streamlining of the approval process.

Changes to provincial land use planning might result from the Aboriginal treaty processes presently underway. Over the past five years, First Nations have become more engaged in the land use planning process, having recognized it as an important way to gain a voice in provincial matters. Over 100 treaties remain to be negotiated.

Until recently, provincial land use planning has been concentrated primarily on resource management. In most respects, policy is now adequately able to deal with this issue. The new LGA marks a definitive shift of focus to the challenges facing urban areas. Most of the emphasis is now placed on management issues which cross municipal boundaries and on building a stronger working relationship between local and provincial governments.

ONTARIO

Legislation

Ontario's *Planning Act* is the primary piece of legislation governing land use decisions. The act is complemented by a host of other legislation including the *Municipal Act*, *Environmental Assessment Act*, *Environmental Protection Act*, *Ontario Water Resources Act*, *Farming and Food Production Protection Act*, *Drainage Act*, *Development Charges Act*, *Ontario Municipal Board Act*, *Municipal Conservation Authorities Act*, *Public Lands Act* and the *Crown Forest Sustainability Act*.

The relationships between the various acts are complex. In some instances, there are direct references between the various legislative documents, either contained within the legislation or in regulations and policy statements. In other instances, there are no direct references between the various legislative documents. Some legislation, such as the *Farming and Food Production Protection Act*, is clearly made subservient to another piece of legislation, the *Ontario Water Resources Act*.

Significantly amended in 1995 and 1996, the *Planning Act* (1990) is relatively up to date. These amendments have resulted in increased flexibility, and greater levels of local autonomy. The act is permissive, allowing municipalities to adopt plans or zoning bylaws at their discretion. Some respondents have commented that, as a result of the amendments, the Municipal Board is the province's only recourse to protect its interests since the province is now largely uninvolved in the plan review and approval process.

Under the *Planning Act*, plans must have regard for identified provincial interests and policies. Matters of provincial interest are listed in the legislation, and articulated in greater detail in the Provincial Policy Statement. However, there are no criteria about to the level of detail or requirements to be addressed by official plans. This has resulted in significant variations among municipal plans with respect to style, structure, and content (such as land use schedules). It was proposed that the province should move toward establishing minimum standards in official plans. There is also a lack of clear direction with regard to a number of issues, such as affordable housing, transit planning, heritage planning, agriculture and the natural environment.

Key Highlights

- land use planning decision-making at local level encouraged
- recently updated *Planning Act* provides for greater level of local autonomy
- provincial policy statements on land use may be "open to interpretation" to result in even application across the province, but lack implementation tools
- Ministry of Municipal Affairs and Housing coordinates a "single-window" approach to planning
- provincial performance measures program
- efforts have been made to introduce mediation and alternative dispute resolution processes
- streamlining and accountability have guided policy development, but environment and growth management are now coming to the fore
- legislation to facilitate brownfield cleanup

Primary Ministries / Departments Involved	Plans and Approval Mechanisms
<ul style="list-style-type: none"> • Municipal Affairs and Housing • Agriculture, Food and Rural Affairs • Environment • Natural Resources • Tourism Culture and Recreation • Transportation • Northern Development and Mines 	<ul style="list-style-type: none"> • Municipal Plans (Regional or provincial approval) • District Plan • Niagara Escarpment Plan • (Oak Ridges Moraine Plan)
Policy Instruments	Planning Areas (and Governance Bodies)
<ul style="list-style-type: none"> • <i>Planning Act</i> • <i>Municipal Act</i> • <i>Environmental Assessment Act</i> • <i>Environmental Protection Act</i> • <i>Ontario Water Resources Act</i> • <i>Farming and Food Production Act</i> • <i>Drainage Act</i> • <i>Development Charges Act</i> • <i>Ontario Municipal Board Act</i> • <i>Municipal Conservation Authorities Act</i> • <i>Public Lands Act</i> • <i>Crown Forest Sustainability Act</i> • <i>Niagara Escarpment Planning and Development Act</i> • Provincial Policy Statement 	<ul style="list-style-type: none"> • Municipalities (Municipal Councils) • County / region / district municipalities (Regional Councils)
	Interdepartmental Coordinating Bodies
	<ul style="list-style-type: none"> • One-window protocol
	Primary Dispute Resolution Mechanisms
	<ul style="list-style-type: none"> • Ontario Municipal Board

The 1996 *Provincial Policy Statement* (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS promotes cost-effective development patterns, focusing growth on settlement areas and designating rural areas as the focus of resource activity. There is a strong emphasis on long-term planning for growth and change, and on regulating development which may have adverse impacts on the environment. The policies are subdivided into nine broad categories: Developing Strong Communities, Housing, Infrastructure, Agricultural Policies, Mineral Resources, Natural Heritage, Water Quality and Quantity, Cultural Heritage and Archaeological Resources, and Natural and Human-made Hazards. Local governments expressed a number of reservations with regard to the PPS. Some are concerned that the PPS is weighted too heavily in favour of economic factors, and consequently lacked emphasis

on such issues as transit, affordable housing, intensification and preservation of heritage and open space. Others reported that the PPS has little regard for the need for comprehensive planning, and is weakened by a number of provisions for exceptions. The PPS is not sufficiently attuned to the needs of major urban communities. Additional policies pertaining to growth and management should be added to the PPS. In a similar vein, it was indicated that the PPS should better recognize the difference between urban and rural, and northern and southern Ontario, highlighting the uniqueness of each region.

Municipalities are bound by the Planning Act “to have regard for” the PPS. Although “to have regard” is not the same as “comply,” it has been interpreted to mean significantly more than “encouraged to follow”. While some local governments believe that this language provides them with an appropriate level of flexibility in applying the policies, others reported that it resulted in uneven application of the policies. The Ontario Municipal Board recently interpreted “have regard” to mean that municipalities should at a minimum meet provincial land use policies unless they have developed compelling evidence to suggest that meeting the intent of one policy will violate the spirit and intent of another.

Due to a lack of monitoring by the province, it is difficult to accurately gauge how the policies are respected, and it appears that local municipal official plans and zoning bylaws have, for the most part, made an adequate effort to respect provincial land use policies. In general, the province’s overall policy interests, (such as the protection of agricultural land and uses), are reflected in local planning documents. Some policies are, however, interpreted very broadly by municipalities. Policies speaking to the protection and promotion of normal farm practices are in some cases ignored, with municipalities establishing arbitrary limits on the number of livestock permitted on a property, or establishing separation requirements which go above and beyond established conventions of normal farm practice. The general policies on water are more likely than others to be broadly interpreted.

The PPS is currently undergoing a five-year review, as mandated under the Planning Act. It was noted that the current PPS is not as detailed as were its predecessors. The current policies are considered to be very general, with few targets or measurable objectives. There is no clearly defined provincial role or associated policies in the application of the PPS. Furthermore, allocated provincial human and financial resources are too scarce to develop municipal/provincial partnerships and develop and provide the necessary policy implementation tools. In fact, it was almost universally agreed that the policies’ single greatest weakness was the lack of implementation tools. Too many exceptions are made in applying the PPS, undermining municipal efforts. It was also noted that many municipal official plans predate the PPS, and thus do not address its requirements.

In addition to the PPS, Ontario has developed two comprehensive provincial land use plans with which regional and municipal plans must conform: the Oak Ridges Moraine Plan (which is to be implemented through the proposed *Oak Ridges Moraine Protection Act*), and the Niagara Escarpment Plan (to be implemented through the *Niagara Escarpment Planning and Development Act*). In other words, the plans are established under individual enabling legislation. This model has some similarities with the Special Planning Areas in Prince Edward Island, which originated with the unique Coastal Protection Area, as well as the Islands Trust Act in British Columbia.

In the case of the *Niagara Escarpment Plan*, the province sets out policies for the maintenance of the Niagara Escarpment and land in its vicinity as a continuous natural environment. The policies ensure that development is restricted to compatible uses on the escarpment and the associated natural environment. These policies support the region's Official Plan and the local municipal plans, which, conforming to the provincial plan are more restrictive than the Niagara Escarpment Plan. The original Provincial Parkway Belt West Plan (1978) was intended to separate and define urban areas; to link urban areas by providing corridors for transportation, communication and utility facilities; to create a land reserve for future linear facilities; and a system of linked open space. Unfortunately, this plan has essentially been implemented with respect to utility corridors, while other objectives have not been achieved.

Overall, these two provincial plans provide for consistent policies across numerous jurisdictions and municipalities. The municipalities are limited to providing comments to the provincial approval body or Ministry (i.e., the Niagara Escarpment Commission or Ministry of Municipal Affairs and Housing). Therefore, provincial decisions do not always reflect local aspirations, priorities and issues. This was particularly true with the Parkway Belt West Plan, and the province was unable to properly implement the plan as a result. Because the approval, administration and appeal process for development under these plans is established under separate legislation, it is also difficult to co-ordinate them with land use planning decisions, such as official plan amendments that fall under the *Planning Act*.

Process

Land use planning in Ontario is carried out by three levels of jurisdiction: the provincial, county or regional/district municipality, and the local municipal level.

The Province issues provincial policy statements regarding provincial interests, promotes provincial interests (i.e. protecting farmland, natural resources and environment), provides one-window planning service to municipalities, advises municipalities on land use planning issues, administers local planning controls and gives approval where required. The Ministry of Municipal Affairs and Housing (MAH) has the primary responsibility for the province's interests in land use planning and, with other partner ministries, coordinates the "one-window" approach to planning. The partner ministries are: the Ministry of Agriculture, Food and Rural Affairs (OMAFRA); Ministry of the Environment (MOE); Ministry of Natural Resources (MNR); Ministry of Tourism, Culture, and Recreation; Ministry of Transportation; and Ministry of Northern Development and Mines. Some local governments stated that, while the province generally consults with local governments through province- or GTA-wide consultation processes, certain ministries, such as Agriculture and Rural Affairs, work more closely with local government and initiate early discussion among provincial and local staff. Provincial ministries associated with planning have been "gutted" in terms of staff and resources, and an emphasis on economic considerations tends to colour discussion of land use planning initiatives.

Counties and Regional or District Municipalities and Planning Boards deal with broad land use planning issues concerning more than one local municipality. Some have their own official plans and subdivision plans and the authority to approve them.

The regional and single-tier planning commissioners have established a forum to address common land use planning issues, including those arising from proposed provincial plans, policies and other initiatives. Senior provincial staff from various ministries also attend and participate as needed. The Commissioners' Group (reflecting the shared opinions and concerns of all Planning Commissioners of Regions and Single Tier Municipalities in Ontario) prepares submissions to provincial agencies regarding their concerns.

Local municipalities make local planning decisions and prepare local planning documents. Like other provinces, Ontario believes that most land use planning decisions are properly located at the local level, and has been enabling municipalities to assume a greater role in the planning process. However, it was noted that in some instances municipalities should be undertaking extensive planning, environmental and land use studies but may not be able to do so for financial reasons. In such cases, municipalities sometimes place the onus for undertaking these studies on private developers, the farm community, and other individuals groups that may find it difficult to bear the additional costs involved.

Upper-tier authorities may assume the duties and functions of a lower-tier authority with respect to planning. Across most of the province, the approval of lower-tier official plans and official plan amendments has been delegated to the upper-tier governments. In some cases, upper-tier and single-tier municipalities are exempt from provincial approval for official plan amendments, although in most cases the province is the approval authority for official plans. Lower-tier official municipal plans are required by law to conform with upper-tier plans. However, under the current system, the upper-tier municipality must launch an appeal if it feels that a lower-tier plan does not conform to its plan. It was suggested that it would be more effective if lower-tier governments were required to initiate the appeal in the case of a conflict.

Where the province is the approving authority, it operates through a one-window planning service for input, review, approval and appeals of planning applications. The approach provides a single provincial position integrating the perspective of a number of affected ministries, namely Environment, Natural Resources, Transportation, Citizenship, Culture and Recreation, Agriculture, Food and Rural Affairs, and Northern Development and Mines.

Plans are not required for all jurisdictions in the province. Since funding assistance to municipalities was discontinued some 10 years ago, it has been difficult for smaller municipalities or those currently without a plan to engage in meaningful land use planning. There is no provincial program to assist with or provide resources for creating a new plan. While some funding continues to be provided for planning in unincorporated areas, the funding formula used is still based on the region's decade-old characteristics, resulting in the inability of some local planning boards to carry out either official plan review processes or effective enforcement, particularly in regions with high growth rates.

Overall, the planning system seems to provide ample opportunities for co-operation among governments at the local level. But one respondent said however, that while the legislation encourages joint planning efforts, most instances of collaboration have come about as a result of restructuring (annexations) and the establishment of more regional municipalities. Although the province encourages collaboration, there is no formal process.

Some local governments proposed that the *Planning Act* should streamline and integrate decision-making and appeals of concurrent applications. For example, a development proposal should only need one hearing in order to apply for a Regional Official Plan amendment, a Local Official Plan amendment, or an amendment to the local zoning bylaw. The different levels of plans are so closely connected, but the decision-making and appeal processes are overly complicated and uncoordinated in terms of accommodating amendment applications.

Ontario continues to transfer an increasing amount of planning approval authority to the municipal level. This approval authority is, in turn, delegated from upper-tier municipalities to lower-tier municipalities, and then often to Committees of Adjustment or Land Division Committees. The rationale for delegating approval authority is to provide municipalities with increased autonomy for land use planning matters. Meanwhile, the province ensures its interests are protected through:

- retaining approval authority for certain planning documents at the upper-tier or single-tier municipal level;
- ensuring the provincial policy statement is effective and up to date, through a five-year review process mandated by the *Planning Act*;
- establishing the Municipal Performance Measures Program;
- appealing local municipal decisions to the Ontario Municipal Board, where necessary; and
- requiring municipalities to provide notice to the province when adopting or approving municipal planning documents.

While local government strongly support the proposition that planning authority is properly located at the local level, transferring the provincial plan review functions to regional government without providing adequate resources to participate and assist in the data and information transfer has been problematic.

The Municipal Performance Measures Program (incorporated into the *Planning Act* in December, 2000) seeks to balance greater municipal authority with increased accountability. Ontario is one of few provinces to have adopted such a program (Prince Edward Island has some performance measures in place); other provinces have indicated a need for performance measurement of some sort. One of the nine core service areas to be measured is land use planning. Because the program is in its early stages, more work is required to refine the appropriate indicators, or measures, to reflect the relative priority of the services in each municipality. In the area of land use planning, work is still underway to enhance the quality of the performance indicators. Two indicators are currently used: 1) the number of lots established outside of designated settlement areas; and 2) the number of hectares of designated agricultural land converted to non-agricultural uses.

Ontario should take these measures one step further and implement a monitoring system to evaluate municipal land use policy decisions to determine appropriate policy implementation. The province is currently developing broad measures for each policy area of interest. Despite the performance measurement initiative, the province does not do enough to monitor the municipal application of provincial policies, and that performance measures may not be the only appropriate way to undertake monitor applications.

Ontario's *Planning Act* is, by nature, prescriptive. Municipalities are limited in the legislative

approaches they can take to address local issues. Municipalities are permitted to develop policies more restrictive than current provincial policies, but only if they do not infringe on another provincial policy by doing so.

Mechanisms to Resolve Conflict

The primary mechanism to resolve land use conflicts is the Ontario Municipal Board (OMB), with the final authority to adjudicate and interpret specific policy provisions. The OMB also hears appeals to municipal planning decisions. The Board is bound by the *Planning Act* to have regard for the PPS. The OMB provides an effective means to resolve disputes between the province, municipalities, the private sector, and the public. However, one respondent observed that while the board is an effective, impartial mechanism, it would be preferable for the members to be selected through a committee of the House, and for specified experience criteria to be established. Currently, the province appoints the board. The OMB was identified as a major check to municipal powers, placing important constraints on local authority. On the other hand, the appeal process through the OMB was seen as complicated and costly, and some matters before the Board could be more appropriately addressed at the local level. The most frequent complaint was the length of time involved in the appeal process.

Cases where municipalities ignore provincial policy are taken to the Ontario Municipal Board, which may impose punitive costs. However, if the matter is not appealed to the Ontario Municipal Board, a municipality may not suffer any particular consequences for its actions. In some rare instances, where municipalities have blatantly and repeatedly ignored provincial policies and legislation, the province has intervened and retracted municipal planning approval authority. One local government respondent stated that the province relies too heavily on the appeal process as a mechanism to protect its interests. As a result, unnecessarily adversarial situations arise, particularly between urban and rural municipalities.

The Board, while effective, does have a number of drawbacks. It can be intimidating for individuals to seek an appeal to the OMB. Many individuals are made uncomfortable by the legalistic and adversarial approach of a Board hearing. Many individuals believe, sometimes correctly, that ‘winning’ at the OMB will require extensive expenditure in the form of legal fees, consultants, and time. It was also pointed out that there is no formal appeal mechanism whereby other ministries can appeal decisions of the MMAH, the lead ministry in the One-Window framework.

Efforts have been made by the Ontario Municipal Board to introduce mediation and alternative dispute resolution processes prior to formal hearings. There has been some success in reducing the number of cases that proceed to a full hearing of the Board. Some local governments suggested that a provincially appointed arbiter could be a useful intermediate step before a formal Municipal Board hearing is held.

Level of Coordination and Public Consultation

Planning at the provincial level in Ontario is both integrated and fragmented. Some five years ago Ontario adopted a ‘one window’ protocol, intended to ensure that the province speaks with one voice on land use planning matters. However, the partner ministries within the provincial ‘one window’ protocol maintain their own planning capabilities and staff. In general, staff in the partner ministries develop specialties in their related fields of expertise. Although there are at times significant issues between the partner ministries and MMAH with respect to the implementation of the protocol, the approach has streamlined the municipal plan and application review process through the provision of a co-ordinated provincial position and the elimination of duplicative review processes. This has facilitated more consistent and timely decisions. Some local government respondents stressed that opening of regional planning offices had greatly enhanced the level of provincial feedback. Another commented that the Toronto MMAH office was of more help than the regional office. Clearly, discrepancies remain among the various offices, and local governments continue to look to the most helpful source for assistance.

Partner ministries in the one-window protocol do not always believe that they are consulted appropriately, and co-ordination levels between MMAH and the partner ministries vary to some extent by location and office. On the other hand, recent work in the province regarding the development of the Oak Ridges Moraine Plan provides an excellent example of an integrated approach to planning, involving a variety of stakeholders and various provincial ministries, including MMAH, MOE, MNR, and OMAFRA.

If undertaken co-operatively, implementation measures seem to be most effective at the local level, especially in areas where there is already not only a degree of acceptance for provincial interests policies, but a willingness on the part of municipalities to invest resources in planning. The province may provide technical expertise and funding, but the co-ordination of long-term implementation can be undertaken at the municipal level. However, in some cases, this approach simply is not suitable or effective.

The Ministry of Municipal Affairs and Housing (MMAH) has the lead responsibility for development of new land use policy through the provincial ‘One Window’ protocol. The partner ministries sit on a number of committees that provide direction to MMAH on policy development. In the recent review of the PPS, the consultation process included the partner ministries, municipalities, developers, citizens groups, conservation authorities, farm groups, the Ontario Professional Planners Institute and the public. However, the role of municipalities with respect to policy development is limited. While municipalities have been asked to participate in consultations as stakeholders, they have not been directly involved.

Respondents were generally satisfied that present land use planning process in Ontario include a sufficient degree of public consultation. In some instances, individuals in rural areas expressed concern with provisions requiring notice of a public meeting on a planning matter be given to landowners within a given geographic radius of a land use planning application, distances which some feel are more reflective of urban areas than rural areas.

Governance Challenges

Many municipalities do not have adequate resources to effectively protect provincial interests, nor do they necessarily believe all policies are beneficial to the province as a whole, despite the province shifting a significant degree of authority to the municipal level. The ‘day to day’ implementation of provincial policy often rests at the municipal level, since it is tied to planning approval authority. Without technical reports and implementation guidelines to assist in the interpretation of provincial planning policies by municipal planners, this has led to a number of challenges. The province should develop detailed technical manuals and guidelines to provide further direction to municipalities, the public, and the Ontario Municipal Board on provincial land use policies.

Recent municipal amalgamations in Ontario have led to instances where urban planners with little or no background and training in rural and agricultural issues and policies are asked to implement provincial agricultural land use policies. In other cases, due to staff turnover, new staff who may not understand or be familiar with provincial policy are being asked to implement these policies. In some instances, municipal staff have appropriately recommended the implementation of provincial policy, only to have this recommendation overridden by the elected municipal officials.

Until recently, the driving factor behind changes to land use planning in Ontario has been a focus on streamlining and accountability. However, certain recent events (such as the province’s Smart Growth initiatives) demonstrate a new change in direction and bring the issues of environment and growth management back to the forefront. The development of the new Oak Ridges Moraine Plan is another example of this shift in focus.

Balancing urbanization with environmental protection is the major land use challenge facing Ontario today. The Oak Ridges Moraine Plan and the Niagara Escarpment Plan—and their respective Acts—are both innovative projects that coordinate planning approaches to these features across a number of municipal jurisdictions, and bring a long-term, provincial perspective to the environmental protection of these features.

QUEBEC

Legislation

Planning in Quebec incorporates a number of important pieces of legislation, chief among them the *Loi sur l'aménagement et l'urbanisme (Planning Act)*. Establishing the framework where land use planning takes place, the Planning Act is interrelated with a number of other important pieces of legislation, namely the *Loi sur la protection du territoire et des activités agricoles* (Agricultural Act), the *Loi sur la qualité de l'environnement* (Environment Act), the *Loi sur les biens culturels* (Heritage Act), and the *Loi sur les forêts* (Forests Act). These Acts have been written so as to reference each other and are thus highly integrated. When new policy is developed there is a great deal of consultation with Ministers from a variety of departments to ensure policies meet their mandates and are consistent with existing departmental policy.

Quebec's provincial land use policies, *Les Orientations ministérielles en transport et en aménagement du territoire*, are vigorously applied, and have been used by the province to turn down development plans submitted by local government. New policies are developed through extensive consultation and discussion involving both government departments and the public. In drafting policies, the province strives to maintain an adequate level of flexibility in its policies, balancing provincial interest and the needs of local citizens and economies.

Quebec has a sophisticated land use planning system that is able to address a comprehensive set of land use issues in an integrated way. The basic planning units are the **Municipalités Régionales de Comté (MRC), or Regional County Municipalities (RCM)**. Nearly all municipalities in Quebec are grouped into these regional units, which were created in 1981.

MRCs are administered by a council composed of mayors of the member municipalities and council members, with representation proportionate to the municipal populations. Currently, the "Préfet" of the MRCs is one of the mayors/reeves nominated by the other representatives on the council. However, the province is thinking of making this position elected by popular vote. MRC boundaries are defined by the province, and encompass both urban and rural municipalities, implying an integrated approach to urban and rural planning. MRCs must adopt regional development plans, and their jurisdiction extends over county watercourses.

Key Highlights

- Strong regional planning practices, through Regional County Municipalities
- addresses land use issues in a holistic fashion, integrating environmental, economic, social, transportation and heritage concerns
- effective land use policies
- interdepartmental coordination needs strengthening
- Agricultural Land Reserve has stringent measures to protect farmland
- Desire to strengthen urban policy

Primary Departments/Ministries Involved

- *Ministère des Affaires Municipales et de la Métropole* (Department of Municipal Affairs)
- *Ministère des Transports* (Department of Transportation)
- *Ministère de l'Agriculture, des Pêcheries et de l'Alimentation* (Department of Agriculture)
- *Ministère des Ressources naturelles* (Department of Natural Resources)
- *Ministère de l'Environnement* (Department of Environment)

Policy Instruments

- *Loi sur l'aménagement et l'urbanisme* (Planning Act)
- *Les Orientations ministérielles en transport et en aménagement du territoire* (provincial land use policies)
- *Loi sur la protection du territoire et des activités agricoles* (Agricultural Act)
- *Loi sur la qualité de l'environnement* (Environment Act)
- *Loi sur les biens culturels* (Heritage Act)
- *Loi sur les forêts* (Forests Act)

Plans and Approval Mechanisms

- Schéma d'Aménagement (regional development plan; provincial approval)
- Plan d'Urbanisme (local development plan; regional government approval)

Planning Areas (and Governance Bodies)

- Municipalités Régionales de Comté (Regional County Municipalities)
- Communautés urbaine (Urban Communities)
- Plan Particulier d'Urbanisme (Special Planning Programme)

Interdepartmental Coordinating Bodies

- No official coordinating bodies

Primary Dispute Resolution Mechanism / Bodies

- Mediation
- Referendum
- La Commission municipale du Québec (Municipal Board)
- Commission de Protection du Territoire Agricole du Québec

Local government is more likely to support policies encouraging tourism and recreational development. Policies to restrict urban sprawl are also applied more loosely than others. Local commitment to agricultural or riparian zoning also varies among local governments. Because the policies are enforced at the local level, there is some variation as to the stringency with which they are applied. Some local government respondents indicated that the provincial policies impose too much uniformity on planning at the MRC level, and are not at this point flexible enough to allow individual MRCs to make the most of their unique characteristics.

Quebec's land use policies are comprehensive in scope, and are organized into two main sections: directing urban growth, and promoting sustainable management of natural resources.

The first section includes directives to:

- direct urban growth toward existing urban areas;
- favour the revitalization of downtowns and older neighbourhoods;
- improve urban areas by maintaining services and infrastructure;
- protect, restore and improve the built environment; and
- improve living conditions overall.

The policies regarding the sustainable management of natural resources concern themselves with the:

- management of public lands;
- protection agricultural lands and activities;
- planning of mining activities;
- management of forests;
- promotion of effective use of renewable energy resources;
- of biological diversity;
- of accessibility to natural and recreational areas; and
- development of tourism and recreational areas.

While the policies deal effectively with urban issues, they lack the means to address decline in rural areas. It was also stated that policies dealing with urbanization and growth management were too elaborate for rural regions experiencing population decline. On the other hand, one of the more urbanized MRCs reported that provincial direction with regard to growth management was too vague, and that the province has not provided tools or strategies as to how to go about it. One respondent indicated that policies dealing with transportation issues could be strengthened, and noted that the Ministry of Transportation had in fact distanced its relationship from MRCs. In the opinion of some, the policies at present were too vague and allowed for too broad a range of interpretation.

Quebec's land use policies require MRCs to develop a *plan d'action* (action plan), which at least one MRC saw as an underutilized tool. It was suggested that to maximize the benefits, MRCs should be required to monitor its implementation and regular (i.e. annual) review of this plan.

Quebec's land use policies are used to guide local development plans, but municipalities do not necessarily have to comply with the letter of the law but rather with the intent. The early and extensive consultation ensures that they meet the intent. The policies provide a clear indication of provincial objectives, and guide the development of local plans. The plan is submitted to the province for initial review, and provincial officials provide detailed feedback to each MRC. This process allows for negotiation between the MRCs and the province before the actual approval process, at which time the province ultimately decides whether the MRC has adequately protected provincial interests in its development plan. The process is too time-consuming, because by the time a plan is finally adopted, it often requires major revision. One suggestion to shorten the process was that if revision were required, the revised document would be sent back only to the Ministry whose policies had not been adequately regarded, rather than to all ministries. A number of MRCs indicated that the revision process is so elaborate that it places high demands on financial and staff resources. Others appreciated the opportunity for dialogue and negotiation between MRCs and the province. One respondent pointed out that the dialogue with regard to regional plans occurs between provincial ministries and planners, and does not involve local elected officials. It was

said that the participation of the latter in the process would strengthen the planning process, and lend support to the efforts of local planners. The fact that policy often changes even as MRCs are revising their plans was identified by a number of local government respondents as a point of frustration.

Provincial feedback can be useful. One MRC reported that in the case of the plan revisions, provincial officials asked for very detailed plans that in some cases times infringed on municipal jurisdictions. Not enough flexibility was granted, and the jurisdictional boundaries between the regional and municipal levels of government were not laid out clearly enough. Furthermore, the dialogue did not effectively link the content of planning documents and the provincial policies. By contrast, the feedback on the revised plan itself was very clear in setting out provincial expectations with regard to certain elements of the plan.

Some local respondents said that while MRCs are a useful tool locally, they should not be required to send a copy of their *document sur les objets de la révision* (DOR) (document laying out revisions to the plan) to the province.

Process

In addition to MRCs, Quebec has three urban communities, or *Communautés urbaines*, namely Montreal, Quebec and the Outaouais. These three major urban agglomerations encompass one-third of the province's population, and have a slightly different governance structure to accommodate their significantly larger and more concentrated populations. Representatives to the councils of urban communities are delegated by the council of each municipality based on population. In addition to preparing regional plans, urban communities have a number of other responsibilities of regional government.

All MRCs are required to adopt a development plan, or *schéma d'aménagement* for their jurisdiction. The province provides extensive and continuous feedback to MRCs regarding its expectations and the degree to which local plans meet these expectations, ensuring that MRCs have a clear idea of how the province defines its interests. Local respondents pointed out, however, that the provision of feedback and the introduction of new provincial policy is not always a streamlined process. For instance, one MRC had revised its plan just prior to receiving new provincial land use policies, causing a significant delay between the time new provincial policies were put in effect and the time they will be incorporated into the local plans.

The province has developed a number of requirements for local development plans. The plans must give precedence to agricultural land use, delimit urban perimeters, restrict development in hazard zones and offer protection for the environment. They must also control development around major thoroughfares, protect heritage resources, and consider transportation and infrastructure requirements for the region. The development plans serve a number of specific purposes:

- to foster inter-municipal cooperation;
- to ensure continuity between the provincial and local levels of government;
- to incorporate sustainable development components into planning activities (i.e. watersheds)

- etc.);
- to establish planning guidelines for local municipalities to follow;
 - to delimit natural and agricultural zones;
 - to guide major transportation routes in consideration of major constraints;
 - to establish densities; and
 - to identify noxious uses.

Municipalities themselves may adopt a plan d'urbanisme (planning program) which must be consistent with the MRC in place for their region. These plans must include the general aims of land development policy, general policies on land use and densities, and the planned layout of main thoroughfares and transport systems. It may include zones to be renovated, protected or restored, and details of public services and infrastructure. It may also include a plan particulier d'urbanisme (special planning programme) including densities and intended layout of thoroughfares and public transport, as well as infrastructure and servicing and intended zoning, subdivision and building rules. A special planning programme allows specific measures to be put in place for defined areas, such as new residential districts, industrial areas, or a downtown. La Commission municipale du Québec makes recommendations as to whether local plans conform with regional plans, whether municipal regulations conform with municipal plans, and whether government actions conform with regional plans. Essentially, this body ensures consistency between different levels of planning documents.

The MRC system ensures all areas in Quebec have some form of local representation. In unorganized territory, which covers much of Quebec's sparsely populated northern region, MRCs assume the powers of a local government authority. However, MRCs in unorganized territory cannot adopt planning programs for their jurisdiction, and municipalities are not required to obtain regional approval for their bylaws. Crown land in unorganized territory is administered by the Minister of Natural Resources.

One problem with Quebec's regional planning system is that areas where proposed plans have not been approved by the Minister there may not be a plan in place at all. If the MRC refuses to revise its plan in accordance with provincial suggestions, the region simply goes without a plan until one is formulated. To ameliorate this situation, one local government respondent suggested that plans failing to meet provincial requirements should be granted conditional approval while the issues are worked out, so that communities are not left without a plan.

Mechanisms to Resolve Conflict

Overall, Quebec's approach has been to focus on early consultation and mediation as its primary tools to preempt and resolve conflict over land use planning. These approaches are successful in the majority of cases. The level of consultation was improved by implementing the recommendations of the 1998 Administrative Justice System Resolution, which called for improved communication prior to decision-making. For instance, the Commission de Protection du Territoire

Agricole du Québec must now notify applicants whether they intend to refuse or grant approval. The result is a transparent process allowing affected parties to submit their comments and clarify points before formal decisions have to be made. However, when conciliatory approaches fail, cases may be resolved through a referendum process or through an appeal to the Commission municipale du Québec (similar to a Municipal Board).

The **referendum** alternative allows citizens to initiate a referendum if they oppose a planning action proposed by the municipality, such as a change in zoning. This system has been in place since the advent of planning in the province. The strength of this system is that it is a strong incentive for municipalities to adopt a consensus-based approach involving consultation with all affected parties. Politicians seek to avoid such referendums wherever possible, since defeat would spell political disaster. Thus Quebec's elected officials, unlike those in other provinces, have a direct say in planning matters, and a strong incentive to negotiate land use decisions with broad public support. As a result, there is no need for an elaborate arbitration mechanism of the type relied upon in most other provinces. The referendum system also reflects the greater responsibilities elected officials and the public have with regard to land use policies and practices in Quebec.

There are problems with the system. For instance, the referendum option does not apply to Montreal or Quebec City, but the province is seeking to change this. Furthermore, disagreements between MRCs and the province are regulated through negotiations since there is no arbitration structure in place. Some local government respondents indicated such a structure would be useful in settling disputes about plans adequately respecting provincial policy, and that final decision-making power in such cases should not necessarily rest with the province. As MRCs have more contact with other departments and not only with MAMM, the need for such a mechanism has increased to ensure the interests of all Ministries are equally represented in regional plans. The majority of MRC respondents expressed satisfaction with the current system whereby conflicts between themselves and the provincial government are settled through negotiation. A number of respondents said an administrative tribunal would not necessarily have the detailed context or background information of the issue at hand to make an adequately informed decision.

By contrast, the Commission municipale du Québec plays a much smaller role in settling disputes. It is rarely called upon by private citizens or municipalities.

Level of Coordination and Public Consultation

With respect to land use planning and development, Quebec's most influential government department is the *Ministère des Affaires Municipales et de la Métropole* (MAMM); (Department of Municipal Affairs). Other departments with important responsibilities in this area are the *Ministère des Transports* (Department of Transportation), the *Ministère de l'Agriculture, des Pêcheries et de l'Alimentation* (Department of Agriculture), the *Ministère des Ressources*

naturelles (Department of Natural Resources) and the *Ministère de l'Environnement* (Department of Environment).

In theory, legislation is very well coordinated in Quebec. When a new policy is prepared, the draft is circulated to other departments for their comments, and changes are immediately integrated into other pieces of legislation to reduce the chance of conflicting policy between departments. This pre-emptive approach has gone a long way to minimizing the potential for contradictions among different pieces of legislation, a problem which many other provinces are currently struggling to rectify. However, the system does not appear to work as seamlessly as it is intended to, and many MRCs stated that some ministries place unrealistic demands on their jurisdictions, or have requirements directly contradicting the policies of other ministries. One respondent said that MAMM should better integrate the provincial policy directed at the MRCs.

In drafting new policy, the province also engages in consultation with regional departments and the MRCs. When differences of opinion arise, mediation is used. Because ministries other than MAMM may not recognize the outcomes of this process, however, it does not always lead to desirable results.

Because its planning is based on regional units, Quebec has a uniquely integrated system of land use planning. MRCs, originally established to coordinate land use planning, are gradually acquiring responsibilities in other areas (such as economic development), through current initiatives to strengthen their powers (*Renforcements des MRC*). At present, the province is fostering closer ties between the MRCs and the Department of Transportation so the former could potentially gain responsibility in this field as well.

A number of local government respondents said that departmental cooperation is poor in terms of implementing new policy. For instance, the implementation by different ministries of new policies affecting local planning is not coordinated. The Ministry of Natural Resources or Transportation may complete an overhaul of their plans shortly after an MRC has revised its plan. The MRCs surveyed tended to agree accommodating the policies of different ministries can be problematic for local governments. One suggested that given the province's insistence on linking planning and development, more could be done to encourage public bodies such as school boards and regional health authorities to coordinate their efforts with the MRC planning process. Among the examples cited was an approval from the Ministry of the Environment of an aqueduct in a flood-prone area where the Ministry of Municipal Affairs and Housing prohibits development, or the construction of schools outside areas zoned for development, encouraging sprawl. The MRCs sent a clear message that there is a need for more cooperation among the provincial ministries.

The province is looking at doing more to integrate regional development, transportation and natural resources into land use and development processes. One avenue being explored is the French approach of "contractualisation" (formalization by contract), where a contract is made between governments at the local and provincial levels. Oregon has adopted a similar model, and as a result has a much more integrated approach to planning.

Quebec is an excellent example of how complex governance structures can achieve a high degree of integration, although the hierarchy is seen less as a chain of command and more as interlocking spheres of jurisdiction with opportunities for dialogue and negotiation built into the planning

process. Nevertheless, within this framework, local zoning and bylaws must conform with the plans of local municipalities, which must conform with regional plans, which must conform with the spirit of provincial policies and legislation. It is largely through drafting the respective documents that inter-jurisdictional dialogue takes place.

Currently, minimum requirements of public consultation are in effect; for instance, municipalities must notify the public and hold hearings to change a plan or bylaw. However, because the language used is very technical, most citizens are unable to participate in a meaningful way. The communication component of public consultation must be improved.

Governance Challenges

In the early 1980s, the Quebec government sought to decentralize many of its powers, including those in the areas of education, transportation and health. This never happened; only planning was delegated to regional bodies. Now, however, with the proposal known as the “Renforcements des MRC,” the MRCs are gaining other powers, such as those in the area of economic development.

The provincial government anticipates a major overhaul of its planning legislation to meet three main objectives, which are:

- to consolidate provincial policies; to clarify legislation as to what is recommended or mandatory; to foster interdepartmental collaboration; to develop more integrated policy; to encourage departments to work with regional plans; to implement policy; and to develop closer working relationships with MRCs.
- to modernize and strengthen tools to both better implement objectives and to meet changing circumstances.
- to foster local participation by encouraging public participation, and simplifying the planning process for greater transparency and administrative ease.

The province would like to expand the already significant discretionary powers of MRCs, to allow more evaluation on a case-by-case basis (currently includes minor variances, architectural plans, etc.). One feature would be to allow local government to approve development impact studies. Since planning is becoming much more widely understood, people are more ready to administer more complex regulations at the local level. However, there is some debate as to whether MRCs are behind schedule because there is no incentive for them to revise their plans. The revision project is seen as giving more due to provincial interests. One respondent noted that the need for such comprehensive revision is questionable. Rather, it was suggested, the province might circulate new policy as the need arises, addressing particular issues. This would allow for a more in-depth review of planning documents and a more timely incorporation of new policy into local planning documents.

THE NORTHERN TERRITORIES

Planning in the Northern Territories is very different from planning in the provinces, both because of this region's geography and its political structure. The North is sparsely settled, and most communities outside the main urban centres have small populations of several hundred inhabitants. Meanwhile, the hinterland is characterized by unique, sensitive ecosystems and intensive mineral, oil and gas exploitation, resulting in tensions between environmental protection and economic development. A greater emphasis on traditional First Nations uses of land also infuses the planning process in all areas of the territories, though not exclusively in areas with settled land claims.

Complicating the issues are the many jurisdictions working together or in parallel to each other. While territorial legislation governs planning on municipal lands, Crown land is under federal control. Aboriginal land claims are currently being settled in the Northwest Territories and the Yukon, creating a fourth jurisdiction in settlement lands. The process for regional land use planning applied to both settlement and non settlement land (i.e., Crown Land and Commissioners Land). The process provides for direct local involvement, as the Commissions tasked with the responsibility of preparing the plans are comprised mainly of community members. The Government of Nunavut, by contrast, has planning authority over the entire territory, since it was created through a land claims agreement. The federal government continues to play an important role in governance, however, and Indian and Northern Affairs Canada (INAC) staff is among the approval authorities for land use plans.

YUKON

The Yukon's *Municipal Act* is quite basic and prescriptive. Planning on Crown lands is more sophisticated, and is governed by the *Umbrella Final Agreement* (UFA) and the 14 Final Land Claims Agreements falling under it. The UFA has incorporated environmental considerations to the extent the *Environmental Act* has been superseded by it. Regional plans prepared under the UFA are linked to all other land and water planning and management processes of the Government and of First Nations.

The Yukon does not have a comprehensive set of land use policies, but has adopted a Protected Areas Strategy (PAS) similar to that of British Columbia. Yukon's PAS attempts to link local and territorial processes through Regional Planning Commissions, although integrating economic and ecological interests at the

Key Highlights

- three broad categories of planning: regional planning on First Nations Settlement Lands and Non-Settlement Lands; local area planning in unincorporated communities and on periphery of incorporated communities; and municipal planning in incorporated centres
- no comprehensive land use policies, but utilizes Protected Areas Strategy
- attempts to link local and territorial planning processes through Regional Planning Commissions
- favours extensive consultation and consensus-based approach

Regional level is not without challenges. While there is effective cooperation at the regional level, there is a lack of integration at the local level, and the development of Local Area Plans can be difficult due to the different priorities of the departments of renewable resources and economic development.

Primary Ministries / Departments Involved*	Plans and Approval Mechanisms
<p><i>Federal</i></p> <ul style="list-style-type: none"> • Indian and Northern Affairs • Fisheries and Oceans • Parks Canada 	<ul style="list-style-type: none"> • Official Community Plans (approval by Municipal Board or Executive Council Member) • Local Area Plans (Ministerial approval) • Regional Plans (Territorial and affected First Nations)
<p><i>Territorial</i></p> <ul style="list-style-type: none"> • Community Services • Energy Mines and Resources • Economic Development • Environment • Yukon Fish and Wildlife Management Board 	<p>Planning Areas (and Governance Bodies)</p> <ul style="list-style-type: none"> • Regional Planning (Regional Planning Commissions) • Local Area Planning (Territorial Government) • Municipal Planning (Municipal Council and Regional Land Use Planning Commissions)
<p>*Or other types of governance jurisdictions.</p>	
Policy Instruments	Interdepartmental Coordinating Bodies
<ul style="list-style-type: none"> • <i>Umbrella Final Agreement</i> • <i>Municipal Act</i> • <i>Area Development Act</i> • <i>Yukon Protected Areas Strategy</i> • <i>Subdivision Act and Regulations</i> 	<ul style="list-style-type: none"> • Informal Mechanisms • Regional Planning Commission
	Primary Dispute Resolution Mechanisms / Bodies
	<ul style="list-style-type: none"> • Municipal Board • Board of Variance

Legislation

Many parallels may be drawn between planning in the Northwest Territories and the Yukon. As in the Territories, the Yukon has settlement and non-settlement lands. Furthermore, most of the Yukon's land is Crown land, and as in the NWT, the territorial government is the main developer in the area. The Yukon has three broad categories of planning:

- *Regional Land Use Planning* (governed by the Umbrella Final Agreement (Chapter 11) and each of the 14 Land Claims Final Agreements negotiated or under negotiation);

- *Local Area Planning* (undertaken by the Department of Community and Transportation Services in unincorporated communities and on the periphery of incorporated communities, e.g. around the periphery of Whitehorse); and
- *Municipal Planning* (of incorporated areas under the Municipal Act).

There are two key pieces of legislation for community planning. The *Municipal Act* (1999) applies to incorporated areas, and provides the legislative requirement for the preparation of Official Community Plans, zoning variances and subdivision plans. The *Area Development Act* provides for the preparation of Local Area Plans and the subsequent zoning bylaws by the Yukon Government in unincorporated areas. Local Area Plans are also identified as line items in the Territorial Budget, and as part of the capital budget approval process are debated in the House, resulting in strong potential support.

The most important pieces of legislation for resource planning are the Land Claims Final Agreements (each of the 14 First Nation groups have their own), which together comprise the *Umbrella Final Agreement* (UFA). Other sector legislation includes acts relating to oil and gas, wildlife and minerals. It is worth noting that the provisions of the *Environmental Act* are not being utilized because they have been superseded by the Land Claims Final Agreements and the UFA.

Although the Yukon does not have a comprehensive set of land use policies, it has adopted a Protected Areas Strategy (similar to that of British Columbia). The **Yukon Protected Areas Strategy** talks about how the local and territorial processes would be linked when establishing the Regional Planning Commissions, but is flexible and leaves the way open to adapting to the local situation. Unincorporated areas have more flexibility than incorporated areas with regard to land use planning.

Process

Councils must adopt an **Official Community Plan**, to be approved by the Municipal Board or the Executive Council Member. The plan is a framework to guide development policy and decisions, to guide development and to determine probable social, environmental and economic consequences. Plans should outline methods to best coordinate the use and development of lands and resources adjacent to the municipality and identify matters of government concern affecting land use within municipalities. Official community plans supersede the *Area Development Act*.

Local Area Plans require Ministerial approval. Attendant policies are enforced through zoning bylaws.

Regional plans are prepared under the *Umbrella Final Agreement* and *First Nation Final Agreements*. The territory approves plans prepared by **Regional Land Use Planning Commissions**. These plans are to be linked to all other land and water planning and management processes of the government or First Nations, provide monitoring for compliance and periodic review, public participation and development of sub-regional district plans. They are also to apply to the establishment or extension of national parks and historic sites. However, the regional planning process has just commenced and there is no track record on which to judge the process.

Planning is undertaken by Local Planning Teams (LPTs), with the territorial government taking a facilitative role. The government and First Nations draft terms of reference for the LPT, and include a strong communications component.

Mechanisms to Resolve Conflict

There is no formal mechanism in place to resolve land use conflicts, other than appeals to the Municipal Board. The territory's approach is to consult extensively, to try to build consensus, to look at mitigating measures, and to find a middle ground. Because the Yukon has only eight local governments, it has been able to effectively develop a consensus-based approach.

If a Land Use Plan exists, the Development Permit Officer issues the development permit. Unfavourable decisions can be appealed to the **Municipal Board**, under the Subdivision Act. Since 1998, only subdivisions can be appealed to the board. Ultimately, the Minister interprets land use policy when the intended meaning of certain provisions is subject to debate.

The **Board of Variance** hears zoning variances, and the **Municipal Council**, appeals.

Problems encountered in implementing planning policies include clashing pro- and anti-development interests in developing Local Area Plans, the degree of restrictions under the Yukon Protected Area Strategy (there is strong criticism from both sides), and the accommodation of distinct differences in attitudes, world views and approaches in the development and conservation sectors. Getting the various groups to work together can be a challenge. There is also a major difference in the cultural expectations of First Nations and non-First Nations regarding land use, with First Nations governments having a stronger capacity to deal with groups' land use issues.

The Yukon's record is reasonably good in gaining local government and public support, and it seems the plans are sufficiently balanced. On occasion quantitative and qualitative surveys are conducted as part of looking for solutions, and decisions on conflict resolution are at times decided by a jury of peers.

Level of Coordination and Public Consultation

The most influential government departments and agencies with respect to land use planning and development are the Department of Community and Transportation Services, Renewable Resources, Economic Development and the Fish and Wildlife Management Boards. Other key players include First Nations and the Federal Government.

The Yukon's planning process is fragmented. This can result in inter-departmental conflict over the creation of Local Area Plans, particularly between renewable resources and economic development. Beyond the level of Local Area Plans, however, there is a greater degree of coordination. In most cases, sector-specific plans are created through multi-sectoral teams. Still, communication and cooperation are informal, rather than mandated, so the degree of coordination depends to a large degree on the individuals involved.

The Yukon government has recently amended the *Municipal Act*, following a review process that had a strong emphasis on participation. In fact, this process has been described as leading edge, because it gives a lot of authority to local governments.

From the municipal perspective, it was noted that the territory is extensively involved in the planning process, funding planning studies known as Area Development Schemes and providing input through project management review committees and feedback on draft plans.

Governance Challenges

The Yukon government has created citizen planning teams and limited its own role primarily to providing technical assistance.. Because plans developed under this system have not always been in the best public interest, the territory is now trying to regain more control. Although the Yukon has not embraced this approach in the past, a multi-stakeholder approach would be highly effective.

According to the municipal perspective, there is inadequate cooperation among territorial departments. A separate ministry is needed to deal with municipal affairs, one that employs a planner. As well, territorial policy and guidelines need to be elaborated with respect to land use planning. The territory was seen as a developer that funds planning studies. There was a desire at the municipal level for more formalized guidance and direction.

The report, *Five-Year Review of the Umbrella Final Agreement Implementation Plan and Yukon First Nation Final Agreement* notes the changes which have occurred over the last five years, including partnership approaches, new departments created by First Nations to address their land and resource responsibilities, the establishment of effective public boards, councils, commissions and committees, progress in establishing Special Management Areas, and other achievements. However, the report notes that gains in land use planning have not been made as quickly as planned.

THE NORTHWEST TERRITORIES

Municipalities in the Northwest Territories—which only represent approximately 1% of the land area in the territory—are governed by one planning process, while the remaining 99% of the land outside municipal boundaries is governed by a multitude of processes under three different jurisdictions. Planning outside of communities is enabled through federal legislation, land claims legislation, and, to a limited extent, Territorial legislation. Those communities surrounded by Settlement Lands belonging to aboriginal groups with settled land claims continue under Territorial legislation. Political boundaries and structures within the Territories will continue to evolve in response to ongoing land claim and self-government agreements.

The *Planning Act*, which governs planning within municipal boundaries, requires revamping to make it responsive to community needs and current political realities. Cognizant of the Act's limitations, planners have improvised developing more practical and responsive planning documents, like the municipal Land Use Plan to address public needs.

The Territorial Government uses the *Area Development Act* to control development outside municipal boundaries.

'Regional Planning' on Northwest Territories Crown land under the *Area Development Act* is limited to responding to applications of proposed developments. Comments and directions on proposed developments are provided to protect Federal, Territorial and Land Claim/ self-government interests.

The *Planning Act* gives incorporated municipalities the option of adopting General Plans, Zoning By-laws and Development Schemes by by-law. Settlements, unincorporated communities and unorganized communities have adopted Land Use Plans establishing local policies and land use priorities. These plans enjoy widespread community support, and are quite effective even though they are not backed up by bylaws or other means of enforcement.

Key Highlights

- Four jurisdictions involved: federal, territorial, municipal, and aboriginal interests
- Land use plans are effective practical planning documents
- The *Planning Act* needs revising
- The *Mackenzie Valley Resource Management Act* addresses the needs for environmental assessments and mitigation of impacts
- Land claims and self-government agreements are an important consideration in land use planning

Primary Departments/Ministries Involved*

Federal

- Indian and Northern Affairs Canada
- Parks Canada

Territorial

- Municipal and Community Affairs
- Northwest Territories Housing Corporation
- Resources, Wildlife and Economic Development

First Nations

- Sahtu Planning Board
- Gwich'in Planning Board

*Or other types of governance jurisdictions.

Policy Instruments

- *Planning Act*
- *Mackenzie Valley Resource Management Act (federal)*
- *Area Development Act*

Plans and Approval Mechanisms

- Land Use Plan (unofficial plan, with no attendant zoning or bylaws, used by small communities)
- Official Plan (not required)
- Regional Plans (for settlement lands; federal, territorial and local First Nation approval)

Planning Areas (and Governance Bodies)

- Municipalities (Municipal Councils)
- Sahtu Settlement Area (Sahtu Planning Board)
- Gwich'in Settlement Area (Gwich'in Planning Board)
- Crown Land with no First Nations settlement claims (Federal Government)

Interdepartmental Coordinating Bodies

- Ad Hoc Committees

Primary Dispute Resolution Mechanisms / Bodies

- Development Appeal Boards

Key players in land use planning in the Northwest Territories are Indian and Northern Affairs Canada (INAC), the Government of the Northwest Territories, aboriginal governments which have settled land claims (Sahtu, Gwich'in and Inuvialuit), and Parks Canada.

The most influential territorial departments and agencies with respect to land use are: Municipal and Community Affairs (MACA); Resources, Wildlife and Economic Development (RWED); and the Gwich'in and Sahtu Land Use Planning Boards.

Legislation

The *Planning Act* (1988) of the Northwest Territories gives communities authority to control development within their boundaries. This includes communities surrounded by land claim lands since land claims agreements, except where specified for individual lots, exclude community lands. While the Minister retains authority to approve, refuse or require municipalities to amend bylaws for specified reasons, this authority is seldom exercised. Except for a 1988 amendment that incorporated a French Language version, the Act is based on a 1960's Alberta model.

Communities are block funded and responsible for delivering land development program services to their residents. MACA fulfills an advisory and training role at the request of the community. Subdivisions must comply with Territorial legislation including planning document regulations of the community where the subdivision is located. The Territorial Land Titles Act requires the Director of Planning to approve subdivisions, the one instance MACA will review subdivision designs for approval.

The *Area Development Act* gives the Territorial Government development control powers. Use of regulations has included protecting the watersheds of two communities' water sources, controlling development alongside highways, restricting firearm use and in one instance to zone land similarly to that of a municipal zoning by-law. Plans and their regulations are also subject to all other Territorial legislation such as the Public Health Act and the Environmental Protection Act.

The federal *Mackenzie Valley Resource Management Act (MVRMA)* addresses the need for environmental assessments, water licenses, land use permits and regional planning. Adopted in 1998, the *MVRMA* is applicable to all Northwest Territories lands except for those in the Inuvialuit Settlement Region and Wood Buffalo National Park. Planning on Inuvialuit Settlement Lands is undertaken in accordance with provisions of their Land Claims Agreement and planning in Wood Buffalo National Park is subject to national park legislation.

Under the *MVRMA*, Regional Planning Boards were established for the Gwich'in and Sahtu Settlement Areas. The Planning Boards prepare and adopt regional land use plans for their settlement area, subject to approval by territorial and federal ministers and the land claim organization. Whether comparable regional planning boards will be established in areas where land claims are still unsettled is unknown.

The *MVRMA* transferred decision-making authority to northern stakeholders. The federal government, territorial government and First Nations are all represented on the boards. Local First Nations are entitled to nominate one-half of the members to the boards. The *MVRMA* established the Mackenzie Valley Land and Water Board, the Sahtu Land and Water Board and the Gwich'in Land and Water Board. The Mackenzie Valley Land and Water Board reviews applications that fall outside of settled land claim areas. Public consultation is the cornerstone of *MVRMA* processes. Board decisions are subject to appeal by the NWT Supreme Court and Federal Court of Canada.

The *MVRMA* also created the Mackenzie Valley Environmental Impact Review Board, MVEIRB. It is the instrument for environmental assessment and review and consists of three stages: preliminary screening, environmental assessment and environmental impact review. The MVEIRB makes recommendations to the Minister of DIAND who makes final decisions.

Process

MACA's mandate is to develop self-reliant, capable community governments able to deliver services to their residents. It is at each community's discretion whether to adopt plans although all communities with by-law making authority have adopted planning documents.

Incorporated communities with by-law making authority may adopt general plans, a zoning by-law and a development scheme. If a general plan is adopted a zoning by-law must be adopted. The community may also adopt development schemes to amplify the details or carry out general plan proposals.

Settlements, unincorporated and unorganized communities do not have by-law making authority. It is at these communities' discretion whether to prepare and adopted a municipal land use plan by resolution.

Land Use Plans are not formalized in legislation. Land Use Plans are a simple and practical means for smaller communities to attain their land use goals and exercise development control. Plans are often in poster format and use graphics to help make the document practical to read and use. Extensive public, government and agency participation through meetings, comments and advertising during plan preparation gives the plan the credibility to be an effective planning tool. Compliance is achieved by moral persuasion, by land tenure policies and by compliance with Federal and Territorial legislation. They may be translated into one of the Northwest Territories' eight official aboriginal languages.

MACA provides planning advice to communities and is the approval authority for planning documents and subdivision designs. However, the department reviews plans only to determine whether they meet legal requirements, and does not scrutinize the content. Extensive consultation and ongoing contact ensure an appropriate balance of control between territorial and local government. Education is seen as an important tool to ensure land use legislation is properly implemented. Presentations to local councils, consultation and working with communities are among the most effective approaches.

Mechanisms to Resolve Conflict

Conflict over land use is generally pre-empted by ensuring that policy development includes extensive consultation, particularly with municipal councils or bands and aboriginal groups. Public participation and consensus building has minimized land use planning conflicts. For plans adopted under the *Planning Act*, appeals of decisions of the development officer/ Council on development permits go to the local development appeal board. There is no Territorial level development appeal board. The only recourse from a decision of the local development appeal board is to make application to the Territorial Supreme Court on a matter of jurisdiction or on a point of law.

The process for a municipality to adopt and amend their planning documents bylaws is specified in the *Planning Act* and includes holding a public hearing at which time written and oral representations are heard, considered and ruled on by council. Outside the public hearing there are no formal provisions to appeal amendments to a zoning bylaw. In the past, MACA has responded with informal internal reviews or obtain outside advice to ensure the community has complied with legislated requirements.

Since Land Use Plans are not legislated, hence not enforceable under specific legislation, there is no legislated appeal process. Land Use Plans are amended by council resolution. Objections can be presented to council with an accompanying verbal or written presentation. Ultimately, council's decision is final subject to federal and territorial legislation.

Level of Coordination and Public Consultation

Issue-specific working groups or committees often address issues transcending departmental responsibilities and/or levels of government. For example, the Departments of RWED and the MACA are coordinating a Firesmart program to address wildfire threats to communities. Issues may be identified in the Legislative Assembly, by committees or by Territorial staff. Determining which agencies to involve is the usual first step to resolving issues.

A less involved level of inter-agency participation is the circulating of documents to stakeholders for review and comment. This method is standard practice in developing planning documents for communities. It allows agencies to review and comment on draft documents in light of their responsibilities. The Planning Act addresses the public's interests by requiring advertising and the holding of a public hearing for each instance where planning documents are adopted or amended.

Governance Challenges

MACA's relationship with municipal governments is currently in a state of transition, moving toward a greater degree of autonomy for communities. All planning activity in the NWT is affected by ongoing negotiations with aboriginal groups on self-government. Issues such as jurisdiction, land ownership and regulatory responsibilities are on the table. It is anticipated that settlement of land claims will result in a significant reorganization of the territory's administrative structure, which will be matched by changes in planning legislation and process.

There was consensus that the territory's tendency to emphasize process, rather than outcome, was a strength and should be strongly encouraged. Past experiences of small aboriginal communities in the North have resulted in a high degree of sensitivity regarding outside "experts" and a strong emphasis on locally driven and locally managed decision-making.

NUNAVUT

Legislation

As in the other territories, planning in Nunavut is very different at the municipal and regional levels. When Nunavut became its own territory in 1999, it carried over much of the legislation of the former Northwest Territories, including the *Planning Act*. While the *Planning Act* is outdated, the *Nunavut Land Claims Agreement* discusses regional planning in Article 11 and is much more contemporary. There are very few intersections between the two levels of planning, although municipal and regional plans must be compatible. Article 11 of the *Nunavut Land Claims Agreement* outlines some very broad principles which apply to municipal plans.

Nunavut has territorial land use policies for planning in municipalities, but not for regional planning. The government is also in the process of developing *Nunavut Sustainable Development Policy* for land and water.

Key Highlights

- *Nunavut Land Claims Agreement* (federal legislation) is the most important statute regarding land use planning
- Nunavut Planning Commission responsible for planning outside of communities
- Inuit District Organizations have extensive influence on regional planning
- Traditional knowledge is validated in the planning process
- extensive public consultation and public participation are key to the process

Process

Nunavut has four basic types of land:

- *Inuit Owned Lands* (governed by District Inuit Organizations or DIOs): these enable Inuit economic self-sufficiency in a manner consistent with Inuit social and cultural needs and aspirations. Land Use Plans apply to these lands, but must take into consideration Inuit goals and objectives for these lands.
- *Surface Lease* (held by private corporations; subject to regional plans)
- *Municipal Lands* (governed by municipal corporations)
- *Conservation Areas* (co-managed by the Government²⁰ and the DIO but the establishment of, or changes to, their boundaries are subject to approval by the Nunavut Wildlife Management Board. The Government may establish conservation areas on Inuit Owned Lands.)

²⁰Section 1.1.6 of the *Nunavut Land Claims Agreement* indicates that where it is unclear from the context whether the federal or territorial government, or both, are referred to, the two levels of government may negotiate which shall assume authority on behalf of the other, within the limits of their respective jurisdictional authority.

Primary Departments/Ministries Involved	Planning Areas (and Governance Bodies)
<p><i>Federal</i></p> <ul style="list-style-type: none"> • Indian and Northern Affairs • Fisheries and Oceans • Parks Canada 	<ul style="list-style-type: none"> • Municipalities (Local Government, with assistance from the Nunavut Planning Commission) • Regions (Nunavut Planning Commission)
<p><i>Territorial</i></p> <ul style="list-style-type: none"> • Community Government and Transportation • Sustainable Development • Culture, Language, Elders and Youth 	<p>Interdepartmental Coordinating Bodies</p> <ul style="list-style-type: none"> • Informal Mechanisms
<p>Policy Instruments</p> <ul style="list-style-type: none"> • <i>Planning Act</i> • <i>Nunavut Land Claims Agreement</i> (federal) 	<p>Primary Dispute Resolution Mechanisms / Bodies</p> <ul style="list-style-type: none"> • Conflict Mediation, facilitated by the Nunavut Planning Commission
<p>Plans and Approval Mechanisms</p> <ul style="list-style-type: none"> • Official Community Plans • Regional Plans (territorial and federal approval) 	

Planning at the local level takes place through the hamlets, which work in cooperation with (but independent of) the **Nunavut Planning Commission** (NPC), the territorial commission responsible for planning outside of communities. All but one of Nunavut's 27 communities have official plans and zoning bylaws, as well as an enforcement officer. Planning at this level usually conforms to territorial legislation, although enforcement of territorial policy can be an issue.

At the **regional level** (unincorporated areas), plans are formulated by the NPC after extensive public consultation. Regional plans must give "great weight" to the view and wishes of the local communities. District Inuit Organizations must also be consulted and have significant influence. Regional plans must be approved by the territorial Minister for Renewable Resources and the federal Minister of INAC. The NPC and INAC enforce policy in unincorporated areas. Two of the territory's six regions have adopted plans to date, and plans are underway for the remaining regions.

Mechanisms to Resolve Conflict

To date, only minor problems have arisen with regard to policy implementation, most of which arising over the attempt to integrate land use planning and water-related concerns (both inland and offshore). Such difficulties are remedied by amending the legislation, or by applying for an exemption to the territorial Minister of Sustainable Development (exemptions must also be approved by INAC).

Land use conflict outside the authority of government may be settled formally or informally. Nunavut places a strong emphasis on conflict mediation through meetings with stakeholders and the NPC.

Level of Coordination and Public Consultation

Planning is very well coordinated in Nunavut. Plans are circulated prior to adoption, giving a wide range of stakeholders the opportunity to influence policy. The most influential government departments with respect to land use planning and development are the territorial departments of Sustainable Development, Community Government and Transportation, and Culture, Language, Elders and Youth (archaeological sites), as well as the federal departments of Indian and Northern Affairs, Fisheries and Oceans, and Parks Canada.

Local governments are fully involved in policy development, and the role of local government is emphasized in the *Nunavut Land Claims Agreement*. In fact, more land use authority was transferred to the municipal level approximately four years ago as part of the agreement, which required land development responsibilities and jurisdiction be transferred to communities. There has been no similar devolution of authority to the regional level. Article 11 grants a high degree of flexibility to communities, while the *Planning Act* is more prescriptive.

Public consultation is stressed in legislation and in practice. A large portion of the approximately \$2.5 million spent on the development of each land use plan goes toward public consultation.

Governance Challenges

Presently, an intense amount of activity is related to land use planning in Nunavut as new plans are being established and structures set up. The territory has, within a relatively short period, created two regional plans through lengthy public consultation processes, and established a number of new organizations including the Nunavut Planning Commission, the Nunavut Water Board, and the Nunavut Impact Review Board. The legislation is very much up-to-date; it is both streamlined and comprehensive, taking a holistic approach to land use planning and other activities (heritage preservation, environmental protection, economic development, transportation, etc.). However, the territory is struggling to find the capacity to implement it effectively. In a territory with a small, scattered population, the sheer logistics of implementing planning policy may be the biggest challenge.

Part Two:

Five Major Land Use Issues

FIVE MAJOR LAND USE ISSUES

As might be expected, some land use issues varied considerably across the country, reflecting differences in local economies, demographic characteristics, lifestyle choices and geography. However, in spite of the pronounced differences among the regions, from sparsely populated Newfoundland with its resource-based economy to heavily urbanized and industrialized southern Ontario, and from oil- and gas-rich Alberta to unique environmental issues in British Columbia, the most pressing concerns identified in the surveys were consistent across the country. These concerns fall into the broad categories of **water**, **agriculture**, **urban issues**, the **physical environment** and **governance structures**.

Each major land use issue will be discussed below, highlighting unique challenges and best practices characterizing the various jurisdictions.

WATER

Water quality was among the most important land use issues across Canada. Legislation is particularly strong in some provinces in Atlantic Canada, as well as British Columbia and the three Territories. New legislation is being developed in most jurisdictions.

Alberta

Recognizing the increasing pressures placed on existing water supplies, Alberta is currently in the process of developing a comprehensive water management strategy called *Water for Life*. The primary goals of the new strategy are to protect and maintain healthy and sustainable ecosystems, ensure safe, reliable and secure drinking water supplies for a sustainable economy, and to increase knowledge and research about Alberta's water resources. Through a comprehensive public outreach and consultation process, the implementation of Alberta's new water strategy is being projected for late fall 2002.

Saskatchewan

Saskatchewan's management of water resources is currently undergoing considerable restructuring to better address drinking water challenges facing many Saskatchewan communities. The newly established Saskatchewan Watershed Authority (SWA) will consolidate watershed management responsibilities previously held by Sask Water, Saskatchewan Environment, and the Saskatchewan Wetland Conservation Corporation (SWCC). These responsibilities will include ensuring and monitoring water supplies and the assessment, maintenance and management of both public and private water and water waste systems.

New legislation has also been implemented as part of the restructuring process. In June 2002, *The Saskatchewan Watershed Authority Act* and *The Saskatchewan Water Corporation Act* were implemented to address water management issues in the province. The primary goals of the acts

include:

- the protection of source water through the co-ordination of watershed planning;
- the protection of surface water bodies and aquifers from depletion and contamination;
- the restoration and protection of drinking water sources and aquatic and riparian ecosystems;
- the promotion of sustainable economic diversification with regards to water and related land resources.

Manitoba

Although the prairie provinces in general have been criticized for having weak legislation with regards to water resource management, Manitoba has initiated a number of broad strategic plans as well as comprehensive water related legislation to address sustainable water resource management issues. In the late 1980s, water was the first resource to be addressed in a Provincial Sustainable Development Strategy initiated to guide environmentally sustainable economic development initiatives, resulting in *Manitoba's Water Policies* (1990). *Manitoba's Water Policies* set out a number of policies pertaining to water quality, conservation, use and allocation, water supply, flooding, drainage and educational issues with respect to water resources. More recently, the provincial government announced its acceptance of the recommendations put forth in the *Report on the Consultation on Sustainable Development Implementation* (2000) which will serve as a guide for future legislation and broad-based, integrated planning with respect to sustainable water resource management.

Currently, Manitoba's water resource management legislation falls under four "fundamental water acts": the *Water Resources Administration Act*, the *Water Rights Act*, the *Conservation Districts Act*, and the *Environment Act*. In addition to the fundamental water acts, a considerable amount of legislation has also been enacted to deal with specific issues linked to water resources management, such as the *Ground Water and Well Act*, and the *Manitoba Water Services Board Act*.

New Brunswick

New Brunswick stands out for its policies for the protection of watersheds, well fields and aquifers. In fact, the province's *Clean Water Act* specifically addresses those issues, as does the *Clean Environment Act*. Both of these acts will eventually be brought into closer relationship with the *Community Planning Act*, resulting in a more integrated approach to land and water planning. This step would reflect the recent merger of the departments of environment and local government. The province's water classification program operates through the Department of Environment and Local Government, which administers an outreach program where its staff provides assistance and advice to community-based, non-profit watershed groups operating throughout the province. It was noted by one municipality, however, that adequate ties do not exist between the Wellfield Protection Program and land use planning overall.

Forty per cent (40%) of New Brunswickers rely on surface water supplies for their drinking water.²¹ The Department of Environment and Local Government has had a Watershed Protection Program in place since 1990. Complementing its Wellfield Protection Program, the province is currently introducing “The Watershed Protected Area Designation Order,” a more comprehensive regulation affecting the entire watershed area.

Under the Watershed Protection Program, three zones will be designated in municipal watersheds. The first will consist of all bodies of water within the watershed, the other will comprise land falling within the 75-metre setback, and the third will cover areas outside of the setback zone, but within the watershed area. Different regulations will apply to each zone. The regulations will address land uses such as agriculture, forestry, road construction, mining, recreation, residential development, aquaculture and commercial and industrial uses, recognizing all have a potentially negative impact on water quality.

Nova Scotia

Like New Brunswick, Nova Scotia’s water protection measures are commonly seen as exemplary. The Department of Environment and Labour is the lead department with regard to water resources, and is responsible for approvals with regard to drinking water and sewage disposal. The Minister may establish a protected water area for drinking water supplies. A statement of provincial interest is in place for drinking water, and requires all planning documents include measures to protect municipal water supplies, such as:

- restricting hazardous uses;
- developing standards for land use in watersheds; and
- retaining vegetation buffers and minimizing erosion, run-off and sedimentation.

The statement requires planning documents to identify all municipal water supply watersheds within the planning area, and address the protection of these water supplies. The province has also developed a document on recommended agricultural practices within municipal drinking water supply areas in Nova Scotia.²² The agricultural sector, however, has faced persistent drought conditions, and continues to deal with competing rural interests in water use.

Prince Edward Island

Potable and surface water were identified as the most important land use issue in Prince Edward Island. Currently, the Minister of Fisheries, Aquaculture and Environment has exclusive authority

²¹Ministry of Environment and Local Government. (2002.). *Message to All New Brunswickers About Designated Surface Watersheds*. Retrieved November 21, 2002 from www.gov.nb.ca/elg-egl/0373/0001/0021-e.html

²² Water Resources Issues Group. (n.d.). *Designing Strategies for Water Supply Watershed Management in Nova Scotia*.

over surface and ground water, shore water, shorelands and wetlands. A 1997 report²³ noted that water quality was a serious concern on the island, but felt the minister had adequate authority in this jurisdiction to take remedial action. The tools exist to address these issues, but there is concern they are not being implemented to their full potential. The province recently announced a strategy for preserving the quality of the province's drinking water, addressing both public and private water supplies. The ten-point strategy includes measures to better regulate private water wells and onsite sewage disposal systems, and provisions to develop guidelines for the supply, storage, distribution and maintenance. It has been recommended the province move toward planning on a watershed basis with regard to water, habitat and soil erosion.

Newfoundland and Labrador

Watershed protection has been identified as the province's most important planning issue. Newfoundland's water resources are protected exclusively by the *Environment Act* (1996). Under the act, all water is under Crown authority, but the rights are conferred to municipalities and individuals on the condition that they manage it in an environmentally sound fashion. The act regulates development adjacent to waterways, water bodies and wetlands. The minister can define an area around a municipal water supply and regulate development within this area. Provincial policies are now being developed on watershed protection, coastal zone management and wetlands, among others.

British Columbia

In British Columbia, water resource management falls under the *Environmental Management Act*, the *Fish Protection Act*, the *Water Act*, and the *Watershed Protection Act*. The first two pieces of legislation are most closely related to land use planning.

The *Environmental Management Act* allows for the preparation of management plans for specific areas of the province. These plans can include measures with respect to drainage, water resource management and aquatic life management.

The *Fish Protection Act (FPA)* focuses on a major environmental concern at the moment: preservation of fish habitat in light of substantial development along rivers and streams. The Act provides water managers with legislative authority to consider the effects on fish and fish habitat before approving licenses or issuing approvals for work in or near streams.

The FPA focuses on four main objectives:

- ensuring sufficient water for fish;
- protecting and restoring fish habitat;
- improving riparian protection and enhancement; and
- strengthening local government powers in environmental planning.

²³Round Table on Resource Land Use and Stewardship (1997).

Streamside Protection Policy Directives (SPPD), adopted pursuant to the act, apply to regions where fish habitat is under particular stress. Local governments must conform with these directives in making decisions with respect to residential, commercial and industrial development.

The new *Fish Protection Act* and associated amendments to the provincial *Water Act* will provide important provincial tools to directly focus on the prevention and mitigation of the introduction of harmful debris, especially in those areas (e.g. riparian areas), which were previously not adequately addressed through earlier provincial legislation.²⁴

The *Water Act* grants the province authority over water, including provisions for groundwater, and the *Water Protection Act* vests authority for water with the province and prohibits the removal or transfer of water between watersheds.

Ontario

In Ontario, The Ministry of the Environment has adopted a policy statement on water management, as well as water and sewage issues. Protection of surface and ground water is a major issue in rural areas, and residential encroachment on the Oak Ridges Moraine aquifer is generating intense debate. Water management is considered one of the province's most pressing concerns.

There are, in fact, a host of provincial policies in place to protect Ontario's water. Some of the more important of these are: the *Agricultural Code of Practice* and the *Dead Animal Disposal Act*, providing guidelines for livestock operations so the threat of water pollution is minimized; the *Drainage Act* allowing and also controlling the ability of landowners to improve drainage on their properties; the *Environment Act*, which provides guidance for overall protection of water as well as air and land; the *Lakes and Rivers Improvement Act*, ensuring streams are not diverted or altered to the detriment of other users; and of course, the *Ontario Water Resources Act*, specifically prohibiting the discharging of pollutants and requires permits for the taking of large amounts of surface water. In addition, the province has a *Wetlands Policy Statement* aimed at protecting wetlands.

In spite of these legal forms of protection and guidance, recent and tragic events at Walkerton have demonstrated the implementation of such policies has not adequately protect the water resource, both in terms of quality or quantity. One respondent said that municipalities are less likely to enforce general policies on water than other provincial guidelines. The province has recently allocated funding for provincial groundwater studies, to provide information about groundwater sources and guide their protection.²⁵

Quebec

²⁴Ministry of Water Land and Air Protection. (2002). *Fish Protection Act Website*. Retrieved November 21, 2002 from http://www.elp.gov.bc.ca/fsh/protection_act.

²⁵ Ontario Ministry of the Environment.(2002). *Municipal Groundwater Studies*. Retrieved November 21, 2002 from <http://www.ene.gov.on.ca/envision/groundwaterstudies/index.htm>

Quebec has a number of important policies with regard to water resource management. The *Cadre général d'orientation de la future Politique sur gestion de l'eau* aims to:

- protect drinking water supplies;
- conserve and protect groundwater;
- integrate resource management on a watershed basis;
- regulate navigation of the St. Lawrence River to prevent erosion etc.;
- protect aquatic ecosystems;
- implement conflict resolution mechanisms with regard to groundwater;
- integrate policies and legislation relating to water;
- favour and protect public access to waterways; and
- recognize special Aboriginal interests with regard to water resource management and development.

Lakeshores, riversides, littoral zones and floodplains are also protected through the *Politique de protection des rives, du littoral et des plaines inondable*. Current policy is not adequate to addressing the issue of water quality in Quebec. While several other provinces permit watershed planning, Quebec has not yet adopted the means to do so.

Northwest Territories

DIAND is responsible for the administration, inspection and enforcement requirements including the MVRMA and NWT Waters Act. The MVRMA established the Mackenzie, the Gwich'in and Sahtu Land and Water Boards. The Mackenzie Land and Water Board issues land and water permits in unsettled land claim areas and trans-boundary issues. The Gwich'in and Sahtu Land and Water Boards issue land and water permits in their respective Settlement Areas.

Two of the NWT's larger communities have adopted regulations under the Area Development Act to protect the watersheds of their water sources.

Yukon

Yukon makes provisions for Water Management Plans under its *Environment Act*. In areas where such a plan applies, the water management plan supersedes the land use plan. Water Management Plans are developed by the Commissioner in Executive Council.

Nunavut

The Nunavut Water Board coordinates its review process with that of the Nunavut Impact Review Board. The Nunavut Water Board has control over water regulation, use and management, and makes recommendations to the Nunavut Planning Commission.

AGRICULTURE

The protection of agricultural land and farming practices is a concern in all provinces, and even, (to a limited extent), the territories. All jurisdictions had legislation in place to protect farming practices. However, in certain regions particular issues related to agriculture have come to a head. Prince Edward Island, southern Ontario and regions of Quebec and British Columbia are facing immense population growth, placing pressures on the agricultural land base. These provinces have instituted various policies to address the issue.

While all provinces have implemented zoning for agricultural land, and discourage settlement on prime agricultural land, British Columbia and Quebec have developed an agricultural land reserve, setting aside land exclusively for agricultural use. While Prince Edward Island considers such allocation of land a highly effective mechanism to protect agricultural land, respondents doubted that such a policy would not—owing to public opposition—be feasible in that province. Nova Scotia has a Statement of Provincial Interest dealing with Agriculture, and Newfoundland governs agricultural issues through its Lands Act.

Large livestock operations are an important issue in several provinces, yet most current legislation lacks the ability to address them. Owing to massive levels of water consumption and waste management issues, major livestock operations can have serious environmental consequences, and often come into conflict with area residents because of odours. A number of provinces are struggling to update their legislation to accommodate and regulate these operations.

Alberta

In Alberta, an MLA committee report on intensive livestock operations was released in April of 2001²⁶ and is expected to have implications for the municipal role in approval of these developments. The provincial government is assuming legislative responsibility for such developments, much different from Manitoba where approvals continue to rest at the municipal level. The province's interests lie primarily in assuring sustainable growth of the industry, the effects of large livestock operations (known in Alberta as Confined Feeding Operations, or CFOs) on local residents, ensuring approvals, monitoring and enforcement are consistent throughout the province, and other environmental concerns. The new legislation would make the province responsible for siting, monitoring and enforcement of regulations regarding CFOs. In particular, the new legislation delegates approval authority for new and expanding CFOs to the province, provides for technical standards, as well as ongoing monitoring and enforcement, and makes siting of CFOs a provincial responsibility. Furthermore, the Natural Resources Conservation Board now reviews applications, issues approvals and monitors and enforces provincial standards with regard to CFOs.

²⁶Alberta Agriculture Food and Rural Development. (2002). *The Sustainable Management of the Livestock Industry in Alberta Report and Recommendations*. Retrieved November 21 2002 from <http://www.agric.gov.ab.ca/sml/index1.html>

Municipalities, meanwhile, will make recommendations to the province with regard to siting CFOs and will be encouraged to develop agricultural land use plans indicating where CFOs would not be suitable. These changes to earlier legislation will be implemented through amendments to the *Agricultural Operation Practices Act*. Regulation of CFOs thus represents a marked shift in provincial attitudes toward land use planning, and the overall trend has been to delegate authority to the municipal level and to remove the provincial government from the implementation process or the enforcement of provincial land use objectives.

Alberta has developed detailed maps of CFO locations (colour-coded by size), as well as available water and feed supplies. Using statistical analysis systems, optimal areas for CFO expansion are clearly identified based on industry soil and water requirements, ensuring a more organized and sustainable expansion of the industry. The database also takes into account population densities, distance requirements and manure spreading.²⁷

Manitoba

In Manitoba, regulatory technical review committees (Environmental Technical Advisory Committees, or TACs) have been formed to address the issue of Intensive Livestock Operations (ILO), particularly large hog farms. TACs are used to jointly address land use planning and environmental issues.

It was observed some legislation needs to be reviewed in light of current land use issues, particularly change in the agricultural sector. It was noted that ILOs are currently approved as conditional uses, which means neither the neighbouring municipalities nor the farmer submitting the application have the right to appeal. The expansion of agriculture has made communities more aware of the importance of planning.

The report *Finding Common Ground: Sustainable Livestock Development in Manitoba*²⁸ says the location and size of livestock operations are not mapped against broad geographical characteristics on a province-wide basis; rather, municipalities are documenting most of the information associated with the operations. The result is poorly coordinated development patterns and minimal monitoring of the current situation. The report recommends a greater utilization of GIS as a planning tool, particularly with regard to ILOs.

The *Planning Act* requires each new intensive livestock operation to be reviewed by a Technical Review Committee (TRC), acting as a resource to councillors responsible for the siting decision. However, decisions are currently being made within the context of the municipality, rather than the region, and final approval rests with the municipalities alone.

²⁷Alberta Agriculture Food and Rural Development. (2002). *Natural Resource and Environmental Issues Related to Hog Expansion in Alberta*. Retrieved November 21, 2002 from <http://www.agric.gov.ab.ca/sustain/tools1.html>

²⁸Livestock Stewardship Panel. (2000). *Sustainable Livestock Development in Manitoba: Finding Common Ground*. Retrieved November 21 2002 from <http://www.gov.mb.ca/agriculture/news/stewardship/stewardship.html>

In the absence of large area plans, the *Finding Common Ground* report suggests municipalities could be required to review existing development plans to include criteria for acceptability of developments and specify types of development considered compatible or incompatible with the local area. Development plans could also be made to reflect the components of sustainable development to a greater extent.

The same report suggests the province develop criteria to assist in the assessment of development plans for sustainability and require all municipalities/local governments which do not currently have development plans to adopt such plans, ensuring that they reflect the components of sustainable development. The province should also encourage municipalities to unite and plan on a district basis.

A new approval process was also proposed. While final decisions should continue to be made at the local level, a regional component should also be incorporated into the process. In particular, the cumulative impacts and varying capacity of resources are important considerations at a broader scale. The report recommends a “two-approval” process, requiring both the municipality’s and the province’s assent.

Intensive Livestock Operations are currently exempt from any full process under *The Environment Act*. Rather, the province relies on the Livestock Manure and Mortalities Regulation to minimize risk. Still, the authors of the report are confident the industry in Manitoba is evolving in a responsible fashion with respect to environmental awareness.

Saskatchewan

Saskatchewan Agriculture and Food is the lead department responsible for reviewing the waste management plans of proposed ILOs, (in conjunction with Saskatchewan Environment and Resource Management [SERM], Saskatchewan Health, SaskWater, Saskatchewan Municipal Affairs and local municipali

Recent **Environmental Review for Guidelines for Intensive Livestock Operations** indicates the review addresses: location; effect on rare, endangered or unique features of the environment; site conditions; a substantial use of any provincial resource pre-empting its use by others; surface and ground-water use; and emission or release of pollutants or wastes not regulated under other legislation.

New Brunswick

Agriculture represents a major component of New Brunswick’s economy, an importance magnified by the province’s markedly rural population (when compared to other more urbanized provinces). Issues facing this sector are, however, quite similar to experiences elsewhere. As the 1993 Commission on Land Use and the Rural Environment (CLURE) report noted, agricultural lands in the province are under increasing pressure from rural residential development, and this is often in the

form of sprawling, ribbon patterns bisecting or paving over highly productive lands. As a result of inadequate administrative structures and a concomitant lack of coordination, prime agricultural lands were being fragmented into smaller parcels of divided ownership²⁹. The Rural Communities provision is one method by which rural development has been brought under greater control. The *Community Planning Act* and the *Municipal Act* were amended to create a new planning instrument, the Rural Plan. This instrument is tailored for the physical qualities and needs of rural areas and is geared towards engaging public participation³⁰.

Nova Scotia

The Department of Agriculture and Fisheries consolidated two resource departments: Agriculture and Marketing; and Fisheries and Aquaculture. Among the issues facing the department is the need to address environmental issues, particularly as they apply to management of the water resource and the sustainable development of the agriculture, aquaculture and fishing industries. The agricultural sector has faced persistent drought conditions, and continues to deal with competing rural interests in water use. The aquaculture sector is also dealing with problems in terms of access to suitable coastal waters, as well as concerns from the commercial fishery regarding oil and gas development in coastal waters.

Prince Edward Island

Though no agricultural land reserve is in place, Prince Edward Island is concerned with the quality and sustainability of its agricultural lands, particularly in light of settlement issues such as fringe and rural residential development, and environmental issues such as soil erosion. One report suggested introducing widespread zoning for agricultural lands, which could result in closer regulation of activities.³¹ The same report also calls for a comprehensive land use plan to be developed by local and provincial government to protect resource lands by defining how much land must be set aside for each use. While there appears to be a need for zoning of agricultural land, public opposition would likely make implementing such measures difficult.

Newfoundland and Labrador

Owing to both climate and geography, farming has never played a large part in Newfoundland's economy. According to the 2001 Census of Agriculture, there are, in spite of vast rural areas, only 643 farms in Newfoundland and Labrador – a 13.3% drop from 1996. This compares to tiny Prince

²⁹ The Commission on Land Use and the Rural Environment.[CLURE] (1993). *Final Report*.

³⁰ Beaubassin Planning Commission. (1999). *Increasing Housing in Rural Community Centres*. Retrieved November 21, 2002 from <http://dsp-psd.pwgsc.gc.ca/Collection/NH14-1-0387E.pdf>

³¹ Round Table on Resource Land Use and Stewardship (1997).

Edward Island, which reported 1,845 farms in the same time period³². Coupled with Newfoundland's 7% decline in population since 1996³³ there is little in the way of development pressure on agricultural land. However, in recent years there has been an increase in nuisance complaints filed against farms, mostly on the basis of odour, noise and dust. Because the province has had no equivalent to the otherwise commonplace "right to farm" legislation found in other provinces, the government, in December of 2001, passed the *Farm Practices Protection Act*. This act will protect farmers who run their operations legally from spurious complaints, while at the same time protecting nearby residents from improperly run farms.

British Columbia

British Columbia is among the few provinces to take such direct action to protect agricultural land. It has a number of statutes to protect agriculture in the province, including an agricultural land reserve. The *Agricultural Land Commission Act* (1996) allows for the **Agricultural Land Commission**, an independent provincial agency that can, with provincial approval, designate any land suitable for farm use as agricultural land.

Once designated, the land is established as an **Agricultural Land Reserve (ALR)**, a provincial zone where agriculture is recognized as the priority use. In these areas, farming is encouraged and non-agricultural uses are controlled. The ALR covers approximately 4.7 million hectares, including private and public lands that may be currently be farmed, as well as forested or vacant land. Some ALR blocks cover thousands of hectares while others are small pockets of only a few hectares. The ALR comprises those lands within BC with the potential for agricultural production.

Agricultural Land Reserves take precedence over, but do not replace, other legislation and bylaws that may apply to the land. Local and regional governments, as well as other provincial agencies, are expected to plan in accordance with the provincial policy of preserving agricultural land.

The board of every regional district must, in consultation with the commission, adopt a bylaw for a land reserve plan. Not only does the ALR secure farmland, it also serves as a *de facto* urban containment boundary. This stance does not always endear it with local governments, some of which find the land reserve system unduly restrictive. The Agricultural Land Commission may recommend plans for amendment to the province. If the municipal council or regional board fails or refuses to prepare a plan, the commission must prepare a land reserve plan..

The Land Reserve Commission is looking at streamlining its regulations to reduce bureaucracy. This would enable farmers to obtain more value out of their product but still protect the resource. There are opportunities for diversity and economic opportunities (such as agri-tourism) where value can be added to the product by processing on the farm, while at the same time providing retailing

³²Statistics Canada. (2001). Sharp decline in number of farms in Atlantic Canada, according to 2001 Census of Agriculture. Retrieved November 21, 2002 from <http://www.statcan.ca/english/agcensus2001/first/regions/farmat.htm#7>

³³ Statistics Canada. (2001). *Canadian Census Data*.

opportunities, or tourist accommodation on farms. Such initiatives would require changes to buildings situated on agricultural land. It is likely that community plans and zoning would reflect this over time.

British Columbia is currently engaged in establishing closer integration and understanding between urban planning and agriculture, and has published a number of documents in this regard. Among the most recent is *Planning for Agriculture*, which contains a detailed review of plan and bylaw delivery systems and how agriculture can best fit within them.

British Columbia's Ministry of Agriculture, Food and Fisheries is developing a "Strengthening Farming" initiative to improve the relationship between farmers and their non-farming neighbours. The goal is to emphasize the development of partnerships among local governments, the farm sector and the province. This demonstrates the province's use of consensus-building and education as effective planning strategies.

"Strengthening Farming" includes both legislative and non-legislative elements. The *Farm Practices Protection (Right to Farm) Act* is the major legislative thrust. The cornerstone is the new right to farm legislation, including a dispute resolution process. The LGA encourages a stronger focus on planning for agriculture, improved opportunities for ensuring minimal land conflict along the interface of agriculture and settlements, and the development of provincial farm practice standards in consultation with local governments and the farm sector.

Local governments in British Columbia have traditionally focused their planning efforts on settlement issues. Recent changes to legislation will require a greater focus on agricultural issues within the plan/bylaw delivery systems of many local governments and greater policy consistency. Three main tools are used to accomplish this objective:

1. Agriculture and Regional Growth Strategies (RGS)

RGSs must work toward the protection of agricultural lands and encourage the development of settlement patterns that minimize urban sprawl and the use of private motor vehicles. They should result in the more efficient and effective use of urban land, benefiting agriculture in the long term.

2. Agriculture and Official Community Plans (OCP)

OCPs should:

- link federal, provincial and regional policy, express a community's broad objectives regarding agriculture;
- define the agricultural planning area and give policy direction for commencement of an Agricultural Area Plan;
- provide policy direction for focused "edge" (urban fringe) planning processes (an edge plan should include a comprehensive land use inventory and consultative planning exercise, should identify and deal with outstanding land use conflicts and heighten the potential for greater compatibility where land use change is anticipated); and
- designate development permit areas for the protection of farm land, where appropriate.

3. Agricultural Area Plans (AAP)

An AAP is a sub-area plan applied to relatively large cohesive farm communities to provide a greater focus on agriculture than normally provided by an OCP.

Ontario

Like many other provinces, Ontario is largely relying on growth management policies to ensure residential development does not occur on prime agricultural land. However, this objective is difficult to achieve at the fringes of urban centres, particularly in the Greater Toronto Area. Ontario's Factsheet on "Community Relations in the Rural Area" notes that "...[a]s farm sizes expand, specialization increases, agricultural technology changes, and more non-farm people move to the countryside, conflict and misunderstandings between farmers and their [neighbours] are likely to increase."³⁴ This document outlines a strategy to reduce land use conflicts in the face of a changing rural landscape. The factsheet addresses causes of farm-related rural conflict, the *Farming and Food Production Protection Act* and cultivating good farm, neighbour, and community relations. Moreover, the Ministry of the Environment and the Ontario Ministry of Agriculture, Food and Rural Affairs have special protocols to deal with complaints in an appropriate and timely manner.

In regards to Intensive Livestock Operations, nutrient management and larger livestock operations are important land use issues not adequately addressed by current legislation. Although rural municipalities across the province have been struggling with issues related to nutrient management planning and larger livestock operations, existing tools available to municipalities under the *Planning Act* and the *Municipal Act* have not provided sufficient direction, and support, especially with respect to issues of enforcement and compliance. The province is currently developing a *Nutrient Management Act*³⁵ to provide clear standards and enforcement.

Quebec

Quebec has a very effective system of planning for agricultural lands. Two special laws apply to these lands: the *Loi sur la Protection du Territoire et des Activités Agricoles* (Act respecting the protection of agricultural land and agricultural activities); and the *Loi sur L'Acquisition de Terres Agricoles par des Non-Résidants* (Act respecting the acquisition of agricultural lands by non-residents). Both acts fall under the special jurisdiction of the **Commission de Protection du Territoire Agricole du Québec** (Commission for the Protection of Quebec's agricultural lands), which was formed in 1978 to ensure the protection of agricultural lands.

³⁴Ministry of Agriculture and Food. (1998). *Factsheet: Community Relations in the Rural Area*. Retrieved November 21, 2002 from <http://www.gov.on.ca/OMAFRA/english/landuse/facts/98-065.htm>

³⁵Ministry of Agriculture and Food.(2002).*Nutrient Management Act and Regulations*. Retrieved November 21, 2002 from <http://www.gov.on.ca/OMAFRA/english/agops/index.html>.

The Commission's mandate is to ensure the protection of agricultural lands and activities in all designated agricultural regions established by the government, taking regional differences into account. The Commission regulates non-agricultural activity through the *Act Respecting the Protection of Agricultural Land and Agricultural Activities*, which prohibits the following unless permission is obtained from the Commission:

- using a lot for any purpose other than agriculture;
- effecting a subdivision;
- alienating a lot while retaining right of property on a contiguous lot;
- cutting maple trees in a sugar bush; and
- removing topsoil.

Applications to the Commission must be submitted through the local municipalities, who forward them to the Commission along with their recommendations based on the application's compliance with municipal bylaws. If applications fail to comply with municipal bylaws, they are automatically inadmissible. Only an MRC, community or municipality with MRC approval, or a community may apply to have a lot *excluded* from the agricultural zone. A municipality, supported by its MRC or Union des Producteurs Agricoles (Union of Agricultural Producers), may apply for residential development in some areas of agricultural land to prevent case-by-case handling of such instances.

The Commission takes into account a broad range of criteria in its rulings:

- soil capability;
- possible uses of a lot for agricultural purposes;
- possible consequences of authorization of farming practices on neighbouring lots;
- restrictions and effects of laws and regulations, particularly with regard to livestock operations;
- availability of other sites where farming restrictions would be eliminated or reduced, particularly in census agglomerations or census metropolitan areas;
- homogeneity of the farming community and farming operations;
- impact on preservation of regional water and soil quality;
- establishment of land holdings of a sufficient area for farming activities;
- the impact of economic development on the region; and
- socioeconomic conditions necessary for the viability of a community when justified by the low population density of the region.

The Commission also makes recommendations to the Minister and provincial government about the protection of agricultural lands. Between 1978 and 1982, the Commission negotiated with local municipalities to set the boundaries for agricultural zones. These boundaries were reviewed by the respective MRCs and Urban Communities between 1985 and 1992, resulting in some revisions being made by the Commission.

To ensure adequate representation of farming interests in the administrative process, **Agricultural Advisory Committees** must be established by all MRCs whose territory includes agricultural zones. Such committees make recommendations on matters relating to agricultural land planning or environmental aspects of such planning practice.

While some local government respondents indicated that measures to protect agriculture are too stringent and hamper other types of development in the region, they also pointed out that the agricultural land reserve and other measures somewhat curb urban sprawl.

URBAN AREAS

Issues such as affordable housing, densification, transportation, and commercial development patterns are becoming of increasing concern in urban areas, particularly in more densely populated provinces. Many provinces do not have clear policies or implementation mechanisms to address these issues. However, British Columbia, Ontario and Quebec have developed some strong policy responses to address these concerns. In the Prairie Provinces, management of the urban fringe and inter-municipal co-operation were the most important urban issues. Tension between the large cities and surrounding municipalities arose over issues such as service provision and tax sharing. Lack of regional planning has resulted in extensive ex-urban development in many areas, much of it encroaching on surrounding farmland. The provinces have employed different approaches to manage this situation, but none have proved very effective over the long term. In the North, governance of the larger centres poses particular problems. The difference in population size between the territorial capitals and other smaller communities is much more pronounced than in the provinces. While the small communities have little capacity, larger centres may have a planning department on par with that of the territory, and regard extensive territorial involvement as “paternalistic.” In fact, respondents from one of the territorial capitals proposed the municipal planning staff was more experienced than that of the territory.

Alberta

Alberta has left planning approvals and policy enforcement entirely within municipal jurisdiction. Consequently, the province has little involvement in Calgary and Edmonton or the surrounding municipalities. Provincial land use planning concerns itself primarily with rural areas.

Inter-municipal cooperation was viewed as an important land use issue for smaller municipalities as well as large urban centres. Edmonton and Calgary are both looking at ways to improve co-ordination of service delivery and information sharing on land use questions. Municipal Affairs supports regional co-operation initiatives allowing municipalities to explore ways of improving governance effectiveness.

In regards to regional growth, in both Edmonton and Calgary, the Planning Act should be amended to require the preparation of regional strategic plans dealing with the co-ordination of land use, future growth patterns and infrastructure of the major cities and regional municipalities. Edmonton, for instance, is a member of the Alberta Capital Region Alliance, a body with voluntary membership representing many municipalities in the Edmonton area. The alliance promotes cooperation within the Capital Region and facilitates the exchange of information between municipalities, although its relation to the formulation of a shared vision with regard to land use planning is less clear.

Saskatchewan

In Saskatchewan, the main issues are related primarily to the provision of services and permitted development adjacent to urban centres, and competition for tax revenue from development. Although *The Planning and Development Act* provides for District Planning Commissions to address regional planning (urban fringe) issues they could be made much more effective. If a more holistic approach was taken to address issues broader than the typical land use issues (such as recreational planning, public and special needs transportation, capital planning and tax sharing), commissions would be more effective. There is a need to address inter-municipal planning and to broaden the geographical and functional scope of the commissions. There is too little ability to influence what occurs in fringe areas.

Manitoba

The report *Planning Manitoba's Capital Region: Next Steps* (2001) advocates a number of steps to be taken within the Capital Region including:

- strengthening Manitoba's land use policies (in terms of detail and legislative force);
- fostering a more regional perspective in development and planning (this is currently a high priority);
- addressing growth management and equity issues across jurisdictional boundaries;
- streamlining planning legislation;
- developing a regional planning process that will find ways to address inter-municipal conflicts;
- better integrating local and regional planning; and
- developing better (consensus-based) models to resolve inter-city conflicts.

Government is working on several issues identified in the report, including ways to improve the dispute resolution process.

The government is undertaking a Capital Region Strategy, reviewed by the Minister of Urban Affairs, Rural Development and the Environment as well as the mayors and reeves of the capital region. The document *Applying Manitoba's Capital Region Policies* (1996) seeks to ensure environmental and economic sustainability through planning, to protect natural resources, and to integrate capital region policies with those of rural and northern areas. It addresses the need to integrate policies, promote effective settlement patterns, resource management and management of mineral deposits, energy (through transportation), natural, cultural and heritage resources and waterways. The report specifies which jurisdiction assumes a leading role in each topic area.

One municipality believes the terms of its current development plan and the existing legislative framework rendered it unable to respond appropriately to the increase in rural residential development, creating a strain on infrastructure and municipal services as well as raising environmental concerns related to sewage disposal.

The City of Winnipeg stated that the province required too much detail in the municipal plan. The city sees the plan as primarily offering a vision or direction, with other documents elaborating in greater detail. The province is overly prescriptive, particularly in light of the length of time of the approval process. The city believes it should be allowed to maintain a certain level of autonomy with regard to the implementation of the plan, with the province limiting its approval to the vision, goals and general direction.

The major land use issues in and around the City of Winnipeg were identified as:

- low-density suburban and ex-urban development
- inner-city renewal
- water quality
- transportation (particularly with regard to airport area development)

The lack of planning for regional commercial concentration (clusters) was also identified as a problem as it led to scattered commercial development.

One urban centre suggested it was the province's responsibility to regulate subdivision in rural municipalities at its urban fringe, and that in the absence of provincial action in the urban centre has no other recourse but to buy large amounts of lands on its periphery to attempt to control development.

New Brunswick

Planning processes are not in place to accommodate current demographic trends. It should be noted that unincorporated areas represent 80% of the province's landmass and currently houses approximately 40% of the province's population. Furthermore, most of the population living in unincorporated areas lives in regions surrounding New Brunswick's seven cities. Only 20% of LSDs have land use plans in place, and many of these are inadequate, leading to land use conflicts, loss of community character, decline in water quality and quantity and the inefficient use of infrastructure and services. Land use planning in unincorporated areas is less pro-active than in other regions. Lack of human and financial resources has made attracting and retaining planning staff difficult.³⁶

Some local governments are taking action to curb ex-urban migration. One city is hoping to gain greater control over design issues so as to compete with development beyond its borders. Provincial respondents noted that the *Community Planning Act* is very rigid in accommodating local situations, and needs to be more flexible, particularly when it comes to cities and large towns. Key goals in the current *Municipal Act Review* are to:

- give municipalities more latitude;
- improve accessibility to local government;
- improve legislation re: Local Service Districts (LSD); and
- provide better governance in unincorporated regions, building on current LSD model.

Municipalities are concerned that many of their services, paid for by their constituents, are used by citizens from unincorporated regions. The toolkit "Municipal Viability Service Volume 3" focuses on annexation and amalgamation.

³⁶ Minister's Round Table on Local Governance. (2001). *A Vision for Local Government in New Brunswick*, pp. 9-10, 13 and 15.

Recently, New Brunswick communities have undergone a series of amalgamations to address issues related to urban sprawl, and urban and rural differences. Amalgamation has occurred in Edmunston, Miramichi, the St. John Area, and Belledune.

Nova Scotia

The Municipal Services division of Service Nova Scotia & Municipal Relations is equally involved in rural and urbanized areas. It does not approve plans but it does review them. The province has withdrawn from the housing supply program and transit funding, essentially limiting its role to the provision of legal advice and approvals. Nevertheless, the province maintains planning personnel in Halifax in an advisory and supervisory capacity.

That Nova Scotia has incorporated all provincial land is seen as an effective means of fostering regional planning. The regional planning process helps to control low-density fringe development since development restrictions are developed to benefit the region. While the boundaries are regional, they still do not reflect longer-distance commuting patterns. It was noted that some counties may see sprawling commutershed as an economic growth opportunity rather than a fiscal and environmental challenge, so the county system has not solved the problem entirely. Greater cross-municipal border planning is required to address the issue of sprawl. The Halifax and Cape Breton Regional County Municipalities are particularly affected by urban sprawl.

In 2000, the government released a *Study of Urban Development in Rural Areas*, an empirical study of residential patterns in rural areas³⁷. The document includes an overview of past government initiatives to deal with this issue, most recently including, municipal amalgamation and efforts to reduce differentials in urban and rural taxation. Currently, the province relies on the statements of provincial interest and new development-related tools such as levies to curb this trend.

The Statements of Provincial Interest regarding Infrastructure states that planning documents must:

- promote the cost-effective use of existing infrastructure through infill and development of more appropriate density;
- support the rational extension of infrastructure through clustering and directing of development to areas that can be serviced efficiently; and
- deter urban sprawl and development that leapfrogs over serviced areas through the establishment of density standards more appropriate to rural areas.

The province also has a statement of interest with regard to housing, which requires planning documents to:

³⁷ Service Nova Scotia and Municipal Relations. (2002). *Study of Urban Development in Rural Areas*. Retrieved November 21, 2002 from <http://www.gov.ns.ca/snsnr/muns/plan/udira/default.asp>

- promote inclusive residential development by providing for affordability, special needs and alternate forms and tenure of housing;
- provide for flexible residential land development standards such as higher density, smaller lot sizes and reduced yard requirements; and
- allow for changing forms of households such as group homes

Major issues facing the Halifax region are urban sprawl in the rural fringe and the resulting traffic congestion and commuter traffic impacts on urban neighbourhoods. The proliferation of unserved large-lot commuter subdivisions in the urban-rural fringe has generated large traffic volumes on narrow rural highways, creating demand for freeway expansion and leading to traffic problems in urban areas. Lack of provincial support for public transportation was cited as a weakness in the provincial land use planning system. Big-box retailing in peripheral areas has also generated major traffic flows on streets not intended for such traffic volumes, with detrimental impacts on older residential suburbs. Suburban malls are now being upgraded to compete more effectively with this kind of competition.

Cape Breton Regional Municipality, on the other hand, is planning for a decline in population, loss of employment and pollution related to the Sydney Tar Ponds and the steel plant.

Prince Edward Island

Prince Edward Island is also experiencing major residential growth in rural areas. Between 1990 and 1996, 70% of building permits for single family homes were issued for rural areas.³⁸ A Round Table on Resource Land Use and Stewardship suggested the government explore the use of special planning areas around cities and towns as one means of addressing this problem, citing Town of Borden-Carleton as an instance in which this approach has been successful. Such area plans could, for instance, restrict the number of lots per parcel in subdivision. The report notes that new subdivision regulations make it more difficult and costly for developers to obtain subdivision approval in rural areas, and restrictions on highways access offer some degree of control over strip development.

The report acknowledges the difficulty of using zoning as a land use control in a rural context, since it is generally too detailed to allow for ordinary rural growth and development, or too broad to have any meaningful effect. Furthermore, there is strong resistance to zoning in many rural areas. Still, zoning for agriculture is seen as a way to reduce conflict between agricultural and non-agricultural areas. The report recommends requiring developers to set aside buffer zones between their developments and agricultural lands to minimize conflict.

The report also notes that since government no longer provides planning services, small rural municipalities do not have the resources to undertake substantial planning activities. In conclusion, the report calls for a comprehensive land use plan developed by local and provincial government to protect resource lands by defining how much land must be set aside for each use. It notes subdividing is relatively easy on most of the island, and that subdivision approvals do not expire, so

³⁸ Round Table on Resource Land Use and Stewardship (1997).

approvals granted years or decades ago under different conditions may still be carried out under the original terms.

The province can create Special Planning Areas (SPA) as buffer zones restricting development around urban areas. This is seen as an effective means to control leapfrog development. When the province amalgamated 20 municipalities into four in the mid-1990s, it designated the areas around the four newly amalgamated municipalities as SPAs, allowing them to introduce special land use regulations to curb the problem of strip and leapfrog development. This approach has proven to be very successful and has allowed the municipalities as well as the adjacent and surrounding communities to grow at their traditional rates. SPA's have been used to control fringe development around Charlottetown, Summerside, Borden-Carlton and Greenwich (near the island's national park).

While the municipal structure of large urban centres has been addressed through amalgamation, there is still a need for this issue to be addressed in rural areas and small towns, especially those located on the fringe of urban areas. Currently, two-thirds of the Island's communities have populations under 400 inhabitants, resulting in minimal capacity for planning and development. A review should be conducted, possibly with a view to creating a universal municipal government.

Both Charlottetown and Summerside, Prince Edward Island's major cities, have their own municipal acts, providing them with more autonomy than is granted to other communities. These cities also have more staff to address planning issues.

Newfoundland and Labrador

Newfoundland's *Urban and Rural Planning Act* permits both large and small municipalities the ability to fashion their planning documents with sufficient sophistication to deal with their particular issues, including urban sprawl. Nevertheless, the *Report of the Task Force for Municipal Reorganization – Final Report* (1997) reflects the tensions between urban and rural communities, with rural communities worried that regionalization would favour the interests of urban areas.

The most important municipal issue is ensuring effective co-operation among municipalities. There is no legislation in place to address the issue of exurban sprawl around major centres, although it is also an important issue

British Columbia

The new *Local Government Act* in British Columbia has a number of provisions regarding to urban areas, reflecting the province's commitment to strengthening its urban policy. The act grants local governments broad new powers with regard to land use, and provides them with additional authority to establish development permit areas for maintaining the form and character of intensive residential development such as infill, small lot development and conversions.

The province's key urban land use issues were identified as:

- regional growth and management of fringe areas;
- urban intensification;
- integrated land use and transportation planning; and
- affordable housing.

Owing to its importance in Vancouver, British Columbia has incorporated affordable housing into its planning strategies to a greater extent than have the other provinces. While actual legislation with regard to affordable housing is not strong, the provincial document *Planning for Housing 2000*³⁹ describes measures that can be taken at the local level to assure an adequate supply of diverse housing types, including affordable housing. Planning measures that can be employed include:

- Traditional zoning: zoning for multi-unit dwellings;
- Density bonusing: enables local governments to allow developers to build a higher floor area ratio in exchange for affordable housing units or amenities that will benefit the community (32)*;
- Comprehensive zoning: allows government to negotiate for public utilities that benefit communities since it allows for flexibility in allocating densities for development of specific sites (44)*;
- Diverse housing types: zoning that allows housing over shops, provides for manufactured home parks or secondary suites (78)*; and
- Inclusive zoning: requires development to include affordable, rental and special needs housing in developments (15)*.

*Number of municipalities currently using the measure

At present, the major land use issues facing Vancouver are:

- finding sites to absorb regional growth;
- funding growth-related services;
- retrofitting existing neighbourhoods to enhance sustainability; and
- increasing densities in established neighbourhoods.

In the region surrounding Vancouver, important issues include:

- funding for transportation services;
- directing growth into designated growth concentration areas; and
- ensuring a balance between housing and jobs to minimise commutes.

Vancouver is an interesting study of a planning model where the province engages urban issues in an unusual way. The City of Vancouver has indicated members of the provincial planning staff have offices in Vancouver, but their role is to interact with the rest of the region, rather than the city itself. Because Vancouver is governed by a charter, provincial legislation is well positioned to address its

³⁹Ministry of Social Development and Economic Security. (2000). *Planning for Housing: an Overview of Local Government Initiatives in British Columbia*. Retrieved November 21, 2002 from http://www.mcaaws.gov.bc.ca/housing/PLANHOUSE/2000_index.htm

issues. However, the province is increasingly harmonising *the Vancouver Charter* and the *Local Government Act*. The city indicated the lack of a provincial appeal process with regard to the city is a strength because it clearly establishes responsibility for land use at the municipal level.

Ontario

Ontario is undertaking a Smart Growth initiative to better address land use issues in and around urban areas. Housed in the Smart Growth Secretariat, within the Ministry of Municipal Affairs, the initiative encompasses a number of major components including:

- the brownfield legislation, *Brownfield Statute Law Amendment Act* (passed November 2001);
- the *Oak Ridges Moraine Protection Act* (May 2001);
- the commitment to focus \$500 million of the SuperBuild Millennium Partnerships fund on transportation and environmental initiatives;
- the promise to support redevelopment along Toronto's waterfront;
- the plan to review the *Planning Act* to make sure it is consistent with the goals of Smart Growth;
- the environmental assessment of the proposed mid-peninsula highway in Niagara;
- the commitment to create a task force to review the expansion of Ontario's 400-series highways; and
- the promise to consider new lanes on provincial highways for car pools and commuter buses⁴⁰.

It is anticipated that the *Brownfield Statute Law Amendment Act*, will stimulate redevelopment within urban areas by streamlining the approval process for brownfield redevelopment. The brownfield act is being integrated with the *Planning Act* through an amendment to the Community Improvement Section of the latter.

Part of this initiative is the **Development Permit System**, a new regulation under the *Planning Act*. The initiative enables municipalities to use bylaws to control land use development within established areas. Municipalities part of the pilot program have the authority to fast-track development applications and a greater ability to protect the environment. The initiative combines zoning, minor variance and site plan control so developers can get their proposals approved in a single hearing.

Ontario's major land use issues in urban centres are:

- transportation infrastructure;
- service provision;
- new residential and commercial development;
- clean-up of industrial sites;

⁴⁰ Ontario Ministry of Municipal Affairs and Housing, (2002). *Ontario Smart Growth Website*. Retrieved November 21, 2002 from <http://www.smartgrowth.gov.on.ca/>

- redevelopment of declining areas;
- models for regional cooperation;
- resolving land use conflicts (i.e. residential/industrial);
- orderly expansion and fringe development; and
- environmental issues (maintaining a clean and safe water supply, adequate sewage treatment and waste disposal facilities).

These issues are, of course, at the forefront of planning for Toronto's new "megacity" status; a new official plan for the city was produced in the spring of 2002.

Quebec

Local government respondents from urban areas report the most pressing land use issues are:

- the need for more autonomy for smaller communities in metropolitan regions;
- industrial and commercial development; and
- conflicts between agriculture, environment and urban development.

The province is striving to better integrate transportation issues and land use planning. The recent report *Guide à intention des MRC: Planification des Transports et Révision des Schémas d'Aménagement* seeks to tap into the ongoing revision of MRC plans to attain this goal. The *Guide à intention des MRC* covers three main areas:

- outlining the connections between transportation and land use planning, highlighting the need for an integrated approach to these issues in regional plans;
- outlining recent changes to the *Loi sur l'aménagement et l'urbanisme* with regard to transportation; and
- presenting implementation guidelines to help MRCs incorporate transportation into their planning practices.

The biggest factor affecting planning and governance at present is the re-organisation of urban areas, including Montreal and Quebec City, and the Regional County Municipalities. The government is placing emphasis on the development of Strategic Regional Development Strategies, which focus on the strengths of a specific region, such as high-tech in Montreal and seafood products in Gaspésie. The province is taking an active role in creating enterprise (business) zones such as the Montreal multi-media zone. These initiatives will have an impact on land use policy at the regional level in terms of zoning and other regulatory considerations. The province has released a report on the reorganisation of municipalities titled *La Réorganisation Municipale: Changer les façons de faire, pour mieux servir les citoyens*. The document calls for more regional cooperation and greater fiscal equity among municipalities through municipal reorganisation.

The province may be moving toward innovative land use planning tools and regulations such as

Smart Growth, rolling easements⁴¹ and performance zoning⁴². More tools for local and regional planning are a priority for the government.

Municipalities were asked to demarcate urban growth boundaries in their initial plans, dating back to 1981. Often, these boundaries coincided with the boundary of the agricultural reserve and were too large to effectively curb sprawl. Local governments are less likely to vigorously apply provincial policies related to growth management than other types of policies. The province has indicated that it would like to see more innovative techniques arising from municipalities to encourage things like Smart Growth or innovative zoning.

Another important issue is control of commercial centres and industrial parks at the regional level. The government is currently asking for the creation of “priority zones” for such development within urban boundaries.

Yukon

In the Yukon, rural residential development around Whitehorse was identified as a major land use issue. The minimum lot-size of six hectares has resulted in low-density residential development, resulting in a loss of wildlife habitat. It was noted that caribou migration routes are being blocked by development on the periphery of Whitehorse. Because there are no mechanisms to facilitate territorial involvement in Whitehorse land use planning, this situation does not fall under the jurisdiction of the Umbrella Final Agreement. A regional strategy is needed to deal with development in the periphery of Whitehorse. The *Area Development Act* needs to be updated, and linkages between other areas of planning could be explored through Local Area Planning.

As in the Northwest Territories, governance is an issue with regard to Whitehorse. Although more than 80% of the territory’s population lives in the Yukon’s capital, the city still falls under the same municipal legislation as do other communities.

Northwest Territories

Small communities lacking authority to pass by-laws do not have the option of adopting plans under the *Planning Act*. Meanwhile, Yellowknife is governed by the same legislation even though its planning issues are very different and the capacity for local decision-making is much greater. Yellowknife does not have major difficulties with regard to fringe area development because the

⁴¹ Rolling easements are policies that allow development in coastal areas, but require property owners to recognize the right of natural ecosystems to advance inland, ceding way to natural processes as they reclaim the property.

⁴² Performance zoning allows market forces to play a greater role in land use planning by using performance measurement, rather than zoning designation, to guide land use decisions. For instance, limits may be placed on the intensity of development or its impact on surrounding developments (Ottensmann, J. R. (1998). Market-based exchanges of rights within a system of performance zoning. *Planning & Markets* (1) 1: 1-7). Retrieved November 21, 2002 from <http://www-pam.usc.edu/volumel/v1i1a4s1.html>)

municipal boundaries are large, creating a *de facto* buffer zone between the city and surrounding region. However, communities' outlying areas are subject to selection by aboriginal groups as part of their land claims negotiations. Communities must often find alternate sites within the built-up areas since use of the outlying areas is subject to land claims agreements being put in place.

Nunavut

In Nunavut, the difference in size between the capital Iqaluit, (home to only 4,200 of the territory's 25,000 inhabitants) and other communities is less extreme than in the Yukon and Northwest Territories. Unlike the other territories, Nunavut has developed land use policies that must be respected by local governments. All but two of Nunavut's 28 communities have prepared official plans, adopted zoning bylaws and employed an enforcement officer. It should be noted that the officers are not planners, but rather individuals with two years of technical training. Local government at both the municipal level has a high degree of autonomy, much of the land use authority having been transferred to the local level under the *Nunavut Land Claims Agreement* (1993).

ENVIRONMENT

Environmental issues vary across jurisdictions, although all share an increasing commitment to incorporate environmental considerations into land use planning. All jurisdictions have environmental policies of some sort, whether it be acts to regulate pollution or to designate wildlife preserves and protect natural areas. However, the most progressive provinces have incorporated environmental considerations into other components of land use planning as well. Policies geared towards environmental protection are, in every jurisdiction, stronger on Crown land, but are less effective in protecting private, or settled, lands.

Alberta

In Alberta there is little provincial or municipal regulation related to the conservation of natural heritage. However, some important legislation and processes are in place. Indeed, Alberta's integrated planning for Crown lands was regarded as an effective model by a number of other jurisdictions.

The *Environmental Protection and Enhancement Act* applies to all land in Alberta, and is the primary document restricting certain types of development or land use. The act:

- provides definitions of pollution; and
- sets requirements for enforcement and liability that influence municipal approval processes and decisions.

Alberta has a long history of integrated resource management (IRM). An interdepartmental land use decision-making program was established in 1976. IRM now exists in the form of the Integrated Resource Planning program (IRP), which has been focused mainly on Crown lands, a region known as the "green zone". A new template is being developed that would see IRP's developed for the entire province. This process guides the management and allocation of public land and resources according to IRM principles, using zoning to regulate land use. The IRM process emphasizes the importance of regional and landscape-scale processes.

Regional strategies are developed by the Regional Steering Group (RSG), and approved by the Ministers responsible for: the Ministers of the Environment (lead department), Agriculture, Food and Rural Development; Resource Development; and Economic Development. Regional plans provide a link between provincial policy and operational decision-making. Alberta and British Columbia are the only provinces currently applying IRM at a regional, rather than a sub-regional or local level.

IRPs are developed through cooperative efforts of provincial agencies associated with resources and natural areas. All IRPs are approved by the Alberta Cabinet, except for smaller, local IRPs, which are approved by the Minister of Environmental Protection and those ministers whose departments participated in the plan.

While planning within municipalities is relatively informal, particularly in terms of environmental issues, regional planning is well-coordinated and highly sophisticated.

The **Sustainable Development Coordinating Council (SDCC)** coordinates and makes recommendations to the Minister of the Environment on interdepartmental matters relating to sustainable development and environmental protection. The Minister submits reports to the Executive Council. The SDCC is made up of the chair of the Energy Resources Conservation Board and the Natural Resources Conservation Board, and the deputy ministers from the departments of:

- Agriculture
- Food and Rural Development
- Economic Development and Tourism
- Energy, Environmental Protection
- Intergovernmental and Aboriginal Affairs
- Health
- Municipal Affairs
- Public Works
- Supply and Services
- Transportation and Utilities

Alberta's *Environment Business Plan 2000-03* seeks to:

- strengthen compliance with environmental regulations;
- harmonize waste management policies for oilfields with the Energy and Utilities Board;
- implement the *Water Act*;
- develop innovative approaches to controlling emissions;
- manage contamination from upstream oil and gas sites;
- develop guidelines to manage public land in conjunction with Agriculture, Food and Rural Development and Resource Development; and
- develop a water management strategy.

According to the March 1999 document, *Alberta's Commitment to Sustainable Resource and Environmental Management*, Government departments, boards and agencies, with responsibilities related to the economy, natural resources or the environment, are to acknowledge, pursue and reflect the sustainable development vision in their policies, legislation, programs and day-to-day activities. Deputy Ministers will be held accountable for this integration through the Sustainable Development Coordinating Council. More specifically they are to ensure that:

- The use of Alberta's natural resources shall be sustainable;
- The management of Alberta's natural resources shall support and promote the Alberta economy;
- Alberta's environment shall be protected;
- Resources shall be managed on an integrated basis;
- Alberta's resources shall be managed for multiple benefits (provide a range of products and values, i.e. forests for timber and habitat)

Furthermore, initiatives, management and decision-making related to natural resources and environmental management shall be integrated. The Sustainable Development Coordinating Council ensures this type of integration

Alberta is moving toward a more integrated and region-based framework for land use and resource management. It seeks to strengthen existing policy, ensure more streamlined and consistent legislation, and provide clearer direction for those managing resources. More stringent environmental policies for oil and gas industries are addressed. It appears the province wishes to reduce its role in monitoring resource users for compliance to standards at the same time it seeks to strengthen these standards.

Residential development is largely permitted around significant natural features, but must incorporate unspecified measures to mitigate the impact of the development.

Saskatchewan

Saskatchewan's environmental policy focuses primarily on habitat protection. The *Ecological Reserves Act*, the *Wildlife Habitat Protection Act*, the *Environmental Management and Protection Act* and the *Forest Resource Management Act* are the major statutes related to environment.

Saskatchewan protects habitat through the **Representative Areas Network**, which will, when completed, represent the province's 11 eco-regions. These eco-regions will generally be situated on Crown lands and administered by Saskatchewan Environment and Resource Management. Legislation such as the *Ecological Reserves Act*, the *Parks Act* or the *Wildlife Habitat Protection Act* will be used to designate such areas. Although traditional uses are permitted, activities such as road building, commercial forest harvesting and mineral development will be restricted to some extent.

Manitoba

Manitoba's legislation to protect the environment is *The Environment Act* and the provincial *Land Use Policies*.

The Environment Act mandates an environmental management system in Manitoba to ensure the environment is maintained to sustain a high quality of life, including social and economic development, recreation and leisure for this and future generations. The act compliments and supports existing and future provincial planning and policy mechanisms, and provides for the environmental assessment of projects likely to have significant effects on the environment. The Department of Conservation is also considering amendments to the *Environment Act*, and may implement changes recommended in the COSDI report (see below).

Environmental issues are coordinated by the Environment Technical Advisory Committee (TAC). TACs may also be formed in relation to specific projects requiring a high degree of interdepartmental coordination. Recently, regulatory technical review committees have been formed to address the issue of Intensive Livestock Operations (ILOs), and to jointly address certain land use planning and environmental issues.

The *White Paper on the Sustainable Development Act* (1996) recommends that principles of sustainability should be incorporated into all of Manitoba's laws. The *Sustainable Development Act* places a clear onus on the provincial government to develop a sustainable development strategy. The report indicates the need to streamline the development approval process so that a more holistic approach may be used to evaluate projects. The Department of Natural Resources has been instructed to apply the Sustainable Development Strategies, though these have no legal force and thus only apply to Crown lands.

The influential directional document *Report of the Consultation on Sustainable Development Implementation* (COSDI; June 1999) recommends ways to make sustainable development more central to the planning process. It recommends the province:

- adopts province-wide sustainable development policies and incorporate sustainable development into relevant acts;
- make municipal plans mandatory, and incorporate sustainable development practices;
- create large area planning units throughout the province, i.e. Capital Region, others by geographic features i.e. watershed, with minimal overlap between the regions. The plans would provide direction and coordination to the activities of planning and conservation districts, regional and community development corporations, etc. Over time, district planning boards, conservation district boards and economic development corporations may consolidate to form large area authorities;
- better coordinates/integrates development assessment and review for individual projects; and
- improve the interface between planning authority and the public, the federal government and Aboriginal organizations

Manitoba's *Natural Lands and Special Places Strategy* (1995), initiated by the Manitoba Round Table on Environment and Economy, is the cornerstone of the government's policy to fulfill its commitment to the Endangered Spaces Campaign. The goal of the campaign was to establish a network of protected areas representative of each of the natural regions of Canada free from logging, mining, hydroelectric development and other activities that could significantly affect natural habitat. Manitoba has more than doubled protected lands during the 1990s, and such lands now cover 5.5% of the province's total area.

North American Waterfowl Management Plan (NAWMP) is the largest private land stewardship initiative in Manitoba. This group of programs provides various protection options to private landowners in the prairie parkland region. Approximately 36,400 hectares of private habitat lands have been secured and another 65,000 hectares have been affected by conservation activities.

Critical and threatened habitats in Manitoba's prairie parkland region are being secured and protected through the Critical Wildlife Habitat Program, which undertakes stewardship agreements with landowners. Another new private land stewardship initiative is Green Banking, which will encourage landowners to conserve riparian habitat in the agricultural areas of Manitoba.

New Brunswick

New Brunswick is hoping to better integrate its *Community Planning Act*, *Clean Water Act* and

Clean Environment Act as it moves toward an ecosystems approach. The merging of the Department of Environment and Local Government may also facilitate closer integration of environment and settlement policy. Indeed, the department's mandate is to provide integrated environment stewardship through land use planning, zoning, development and waste management. The department is also developing policies on Coastal Lands (establishing minimum province-wide standards), Clean Air, Potable Surface Water and Ground Water Protection, Marine Resources, Water Wetlands and a Protected Area Strategy. Municipal plans are required to contain a statement of policy regarding the environment, pollution and waste disposal.

The province has identified a number of major environmental concerns, including:

- industrial development in prime agricultural and green areas;
- traffic jams in and around expanding subdivisions;
- deteriorating quality and quantity of drinking water;
- loss of habitat and declining wildlife populations; and
- residential areas encroaching on traditional resource lands.

Balancing the imperatives of environmental sustainability and a resource-based economy is a challenge. The government is recognizing the need for stronger environmental legislation, and is developing policies on the following issues:

- coastal lands (establish minimum province-wide standards);
- flood plains (restrict inappropriate development, i.e. regarding subdivision and construction);
- commercial and industrial siting;
- clean air;
- potable surface water and ground water protection (regulate use on ground and surface designated drinking water supply);
- municipal restructuring ;
- marine resources
- settlement patterns (minimize unmanaged development in built-up areas and around urban centres, discourage access development along highways, minimize public cost of servicing and establish an equitable property tax calculation);
- water classification;
- pits and quarries;
- water export;
- local governance;
- wetlands; and
- protected areas strategy (is being developed by the Department of Natural Resources and Energy)

A wetland approach to land use planning and eco-regions or systems approach are seen as effective.

An integrated approach to environmental stewardship is being developed, focusing attention and combined expertise on the management of resources. Through the new department, air, land and water planning and management issues may be addressed together, providing clarity for local governments, developers and the public.

A Sustainable Planning Branch has been established to guide this process. The new branch brings together the land use planning process and District Planning Commissions from the former Department of Municipalities, and the environmental planning components, including strong water and air protection responsibilities, of the former Department of the Environment.

Nova Scotia

Nova Scotia protects its environment through a number of pieces of legislation, including the *Beaches Act*, *Special Places Protection Act*, *Environment Act*, and the *Wilderness Areas Protection Act*.

The Department of Natural Resources is encouraging IRM planning on all lands (since only 25% of land is Crown land) since most natural resources straddle legal land boundaries, making integrated planning difficult if it is restricted to Crown land. Efforts include the Department-sponsored Private Land Forest Management Program, Eastern Joint Venture Program, Private Land Stewardship Program and the Public Extension Information Program.

The Department of Natural Resources is developing an Integrated Resource Management (IRM) strategy to guide management of Crown land. Such plans consider wildlife, parks, forestry and mineral sectors in an integrated fashion. Public consultations revealed that people desired:

- better protection for Crown lands;
- more detailed development plans for such lands;
- better road access to natural wildlife areas; and
- better management and protection of freshwater resources.

Prince Edward Island

Environmental issues in the province include soil erosion, habitat and water quality and quantity. The *Round Table on Resource Land Use and Stewardship*⁴³ recommends the province move toward planning on a watershed basis with regard to water, habitat and soil erosion. Currently, the province is acquiring forested and wetland habitat in watershed basins.

The Department of Agriculture and Forestry is currently conducting a comprehensive land use inventory across Prince Edward Island. The inventory is designed to examine current land uses such as agriculture patterns, forest conversions, wildlife habitat requirements, soil erosion potential and the impact of the current forest harvest. The information will be used to prepare public reports on the state, health, harvest and management of the island's natural resources, including public and private forests, and to provide land owners, forest industries, conservationists and policy makers with an accurate picture of current resource conditions and trends.⁴⁴

⁴³ Round Table on Resource Land Use and Stewardship (1997).

⁴⁴Island Information Service. (2001). Comprehensive land use inventory underway (press release).

Two of the most important pieces of environmental legislation are the *Natural Areas Protection Act*, which designates newly acquired and Crown land containing sensitive ecosystems or species “natural areas”, and therefore subject to provincial management; and the *Environmental Protection Act*, which grants the Minister of the Environment broad powers to protect the environment.

Newfoundland and Labrador

The new Environmental Assessment Act was proclaimed in 2000, but policy changes regarding the environment have been slow in coming. The most pressing environmental issues in the province are habitat protection, the long-promised and overdue completion of the provincial ecological systems plan, a revision to provincial forest practices and improved waste management legislation..

British Columbia

British Columbia has adopted important legislation regarding to environmental preservation with a significant impact on land use planning in the province. Some acts apply to specific areas, such as the *Fish Protection Act*, and the *Islands Trust Act*. Others are broader in scope, including the *Environmental Management Act*, *Environmental Land Use Act*, *Ecological Reserve Act*, and the *Protected Areas Strategy*.

Among these, the **Environmental Land Use Act** (1996) governs the Environment and Land Use Committee whose duties include:

- ensuring preservation of natural environment is fully considered in the administration of land use and resource development;
- advising the province about the environment and the development and use of land and other natural resources; and
- conducting studies related to the environment or land use.

The **Environmental Management Act** (1996) grants the Minister of Environment the following powers:

- planning, research and investigation with respect to the environment;
- development of policies for the management, protection and use of the environment;
- planning, design, construction, operation and maintenance of works and undertakings for the management, protection or enhancement of the environment;
- preparation and publication of policies, strategies, objectives and standards for the protection and management of the environment; and
- preparation and publication of environmental management plans for specific areas of British Columbia.

The **Ecological Reserve Act** reserves Crown lands for ecological uses such as education and scientific research, while the **Protected Areas Strategy for British Columbia** states public policy

on protected areas. The strategy is to be used by land use planning processes to recommend land allocations to Cabinet. The target was to protect 12% of British Columbia's land: this target has been exceeded.

The **Islands Trust Act** (1974) establishes a distinct authority over a "Trust Area" to preserve and protect its unique amenities and environment in cooperation with municipalities, regional districts, improvement districts, the provincial government and other organizations. Administered by a Trust Council made up of two elected representatives from each of 13 major islands and island groups (local trust areas), it must adopt a trust policy statement for review by the boards of all regional districts. There is a central executive committee as well as local trust committees (made up of two locally elected representatives and a member of the executive committee) for each local trust area (a major island or group of islands). The exception is Bowen Island, which is now a municipality with a seven-person council: Bowen Island sends two of its council members to the Trust Council. The local trust committees pass bylaws which must be approved by the executive committee. Each local trust committee is a corporation. Local trust committees deal only with land use planning. Regional Districts and Improvement Districts provide all other local government services.

Within the Trust Area, regional districts municipalities must ensure their bylaws, permits, and licenses do not work contrary to the bylaw of the local trust committee. The Trust Council may enter into agreements with regional districts regarding the coordination of official community plans, rural bylaws and services.

Though not formalized through legislation, the Georgia Basin Ecosystem Initiative (GBEI) is a trans-boundary project managed through a provincial-federal partnership. Encompassing Georgia Bay and Puget Sound, the area takes in three major urban agglomerations: Vancouver, Victoria, and Seattle (Washington). The GBEI partners have developed a set of action plans to improve air quality, reduce and prevent water pollution, conserve and protect habitat and species, and support community-based environmental and sustainability initiatives. Transboundary mechanisms for joint planning and action are being expanded so Canadian and American partners can work together more effectively to protect ecosystems and plan recreational and economic opportunities. A Joint Statement of Co-operation on the Georgia Basin and Puget Sound Ecosystem was signed by the Canadian and US governments. Issues of joint concern include air quality, point and non-point discharges to surface water, contamination of ground water, sewage contamination of shellfish production areas, toxic chemicals and the degradation and loss of coastal and uplands habitat. The initiative recognizes the three basins involved in this initiative share a common airshed, watersheds, flyway for migratory birds and common urban growth pressures. The region's already high population is expected to grow within the next 20 years, resulting in growth pressures, making effective planning imperative.

Ontario

Ontario's main environmental problems are water quality, air quality and urban sprawl. According to respondents, growth management is not adequately addressed by current legislation. Growth management processes and rules are needed, rather than the permissive system set out by the current Planning Act. Strong urban boundaries, flexible development control tools and a more constrained

process for initiating amendments to official plans were seen as important elements for addressing the issue. Stronger mechanisms are needed for regional planning and governance, since municipalities' scope is often too narrow to effectively address environmental issues.

The review agencies of the Ministry of the Environment have involvement in only a limited number of controversial decisions, and then only at the discretion of the Municipal Planning Authority and the Ministry of Municipal Affairs and Housing.

There are however two innovations that are having an important impact on planning. The first pertains to the Niagara Escarpment, which, as one of the largest remaining wooded areas in southern Ontario, an important wildlife corridor, and an important wetland habitat, has significant natural heritage value. In order to gain more control over the type and extent of development on the escarpment, the province has implemented the Niagara Escarpment Development Plan. The plan:

- allows the province to set out policies for the maintenance of the Niagara Escarpment and land in its vicinity as a continuous natural environment;
- ensures development is restricted to what is compatible with the escarpment and the associated natural environment; and
- supports the region's official plan and the local municipal plans

The second major initiative is the *Oak Ridges Moraine Protection Act*. The Oak Ridges Moraine provides habitat for threatened flora and fauna, and is an important aquifer in the Greater Toronto Area (GTA). The Moraine encompasses 34 municipalities; 65% of its area lies within the GTA. The Oak Ridges Moraine Plan:

- allows the provincial government to establish a land use plan to protect significant natural and water resource features in the Moraine;
- requires decisions for planning and development applications must conform with the Oak Ridges Moraine Conservation Plan;
- forbids municipalities to approve, adopt or apply official plans, official plan amendments, zoning bylaws or plans of subdivision involving land on the Oak Ridges Moraine; and
- prevents the Ontario Municipal Board (OMB) from ruling on decisions involving land in the Oak Ridges Moraine.

In addition, the province has created *Ontario's Living Legacy Land Use Plan*⁴⁵. Emerging from the "Lands for Life" planning program to provide land use and resource management direction for Crown lands and resources, the plan will create new habitats for endangered species and preserve more wetlands and other ecologically significant areas in Southern Ontario by expanding the parks and protected areas system by 2.4 million hectares. It also builds on the *Endangered Species Act* and improves protection of fish and wildlife populations, habitats and public access. IN order to facilitate its implementation, the plan takes an integrated approach, partnering conservationists, residents, business and government.

⁴⁵ Government of Ontario. (2002). *Ontario's Living Legacy*. Retrieved November 21, 2002 from <http://www.ontarioslivinglegacy.com/theme.html>

While these initiatives are encouraging, more provincial involvement is needed with regard to private land, and Ontario should move toward planning on the basis of ecosystems and ecological considerations.

Quebec

Sustainable development and integrated management are guiding principles for environmental protection and resource management.

The Minister of the Environment prepares plans and programmes for the conservation, protection and management of the environment. The Minister is also responsible for a protection policy for lakeshores, riverbanks, littoral zones and floodplains, to implement such policy and to coordinate its application.

The Minister of Natural Resources is responsible for developing plans for public lands, including guidelines on conservation, resource management and land use. The Minister also is responsible for regional settlement plans (*Plan régional de développement de la villégiature*), determining where, when and how settlements can be developed on public land, and developing a local plan for the settlement in conjunction with MRCs, other ministers and public bodies.

The *Bureau d'audiences publiques sur l'environnement* (Office of Public Hearings on the Environment) inquires into environmental matters and makes recommendations to the Minister.

Every resident has the right to a healthy environment, and has recourse to a court of justice. Developments must undergo an environmental assessment review. The Minister can decide whether the impact assessment applies only to the physical environment, or whether it must consider the socio-economic milieu as well. Any order issued by the Minister of the Environment may be contested by an individual or municipality before the Administrative Tribunal of Québec.

Yukon

Protection of the environment (in particular, wildlife, water and forests) is a major issue in the Yukon. Social and economic development are key considerations in developing communities, and care is taken to ensure adequate servicing is available to communities. Areas of recreation or heritage value are protected, and well-being of First Nations is an important consideration in land use decisions.

Most environmental matters fall under the Umbrella Final Agreement and First Nation Final Agreement (UFA), which deals with issues including:

- the establishment of Special Management Areas under special management regimes;
- fish and wildlife resource planning with attention to Special Renewable Resource Councils and Fish and Wildlife Management Boards;
- access, water management, heritage, forest resources and forest management planning; and

- the development assessment process which replaces the Canadian Environmental Impact Assessment process.

The UFA ensures social, cultural, economic and environmental impacts are considered in the use of land, water and resources.

Chapter 11 of the UFA governs regional land use planning for settlement and non-settlement lands. The planning process is to:

- be linked to all other land and water planning and management processes of the Government or First Nations
- provide for monitoring of compliance and periodic review, public participation, development of sub-regional district plans
- apply to process of establishing/extending national parks/historic sites.
- The UFA states that Regional Land Use Plans must include recommendations for use of land, water and resources by the Regional Land Use Planning Commission, and are approved by government after consultation with affected First Nations and communities.

The *Environment Act* had a significant effect on land use and planning, providing for large-area resource management plans and an integrated approach to land use planning. However, the provisions of the Environment Act are no longer utilized because they have been superceded by the Land Claims Final Agreement and the UFA.

The *Yukon Protected Areas Strategy Implementation Review* (or “YPAS”) is overseen by an umbrella organization that coordinates environmental, conservation and protection proposals arising from different government initiatives. First Nations, Yukon government or the federal government can recommend areas to be protected. YPAS assessment considers: natural/ecological, cultural/heritage, recreation, resources, mineral, oil and gas, forestry, renewable energy resources, tourism, transportation, and other economic values (i.e. trapping, hunting, fishing, agriculture) in planning. YPAS is a corporate policy, meaning all departments are responsible for its implementation. The federal government participates through DIAND, Environment, Fisheries and Oceans and Parks Canada.

Current legislation does not adequately address issues around wetlands and shorelines.

Integrated Resource Management (IRM) components are being incorporated into renewable resource planning. Because local area planning occurs in sparsely populated areas, it takes into account the needs of the resource sectors.

Northwest Territories

Environmental issues are prominent in the North and its resource-dependent economies. Sustainable development of resource-based industries and adequate protection of sensitive northern ecosystems are the primary issues. The territories have developed innovative strategies to protect their environments while ensuring the economic needs of their residents are met.

Aside from aboriginal land claims, the environment was identified as the most important land use issue in the Northwest Territories.

The *Mackenzie Valley Regional Management Act* (MVRMA) ensures a high degree of rigour in environmental impact assessment. The act applies to the entire territory, except the Inuvialuit Settlement Region and Wood Buffalo National Park. The act establishes the Mackenzie Environmental Impact Review Board (assessments and panel reviews).⁴⁶ The environmental assessment process mandated by MVRMA provides a strong voice for local government in decisions that may have an impact in their jurisdiction. The act also establishes the Mackenzie Valley Land and Water Board, the Sahtu Valley Land and Water Board and the Gwich'in Valley Land and Water. The Mackenzie Valley Board reviews applications falling outside of settlement areas, while the Sahtu and Gwich'in Board review applications that falling within their jurisdictions.

Nunavut

In Nunavut, environmental planning is governed by the *Nunavut Land Claims Agreement*. The Nunavut Department of Sustainable Development is the most influential territorial department with regard to land use planning, ensuring environmental interests are strongly represented.

The most important land use issues in Nunavut are related to the environment and include:

- mining development;
- protection of critical wildlife habitat; and
- protection of traditional use areas.

Nunavut practices integrated resource management. The Nunavut Water Board works with the Nunavut Planning Commission and the Nunavut Impact Review Board to manage land and water use. Development proposals are reviewed by all three bodies.

Conservation Areas are co-managed by the government (territorial or federal) and District Inuit Organizations (DIOs). However, establishing or changing their boundaries is subject to approval of the Nunavut Wildlife Management Board (NWMB). The government may establish conservation areas on Inuit Owned Lands.

The *Nunavut Impact Review Board* (NIRB) assesses regional impacts of proposed projects (ecosystemic and socio-economic) and decides whether a project should proceed. All members are appointed by DIAND, some of whom are nominated by the DIO and territorial government.

The *Nunavut Water Board* (NWB) has control over water regulation, use and management. All members are appointed by DIAND, some of whom are nominated by the DIO and territorial government. Makes recommendations to the NPC with regard to land use planning.

⁴⁶ Mackenzie Valley Environment Review Board. (2002). *Website*. Retrieved November 21, 2002 from <http://www.mveirb.nt.ca/index.html>

To avoid duplication, the NWB and NIRB can hear a proposal jointly or decide whether only the NIRB will hear it. NPC, NIRB and NWB coordinate the review process to ensure efficiency.

The *Territorial Lands Act* allows the Governor in Council (GC) to create land management zones to protect physical characteristics or the ecological balance, after consulting with the territory. The GC regulates subsurface resources and may dispense mining rights, with protection and compensation to the holders of surface rights. The Crown maintains subsurface rights to all territorial lands. The GC may also reserve land which lies beneath the high water mark of coastal areas, and regulate timber cutting on territorial land. The GC may set aside land for heritage sites, community amenities and other public purpose (schools, churches, hospitals, harbours etc.), to fulfil treaty obligations, to establish protected natural areas and resorts, for railway, power companies or pipeline companies to establish infrastructure, and to establish mining and timber districts. The GC may also make regulations to protect and control the use of the surface of territorial lands.

GOVERNANCE AND REGIONAL PLANNING MODELS

Issues of governance and regional planning models arose in every jurisdiction. A number of provinces lacked adequate governance structures in increasingly populated unincorporated areas while others struggled with issues related to rural decline. A number of provinces indicated it was difficult to foster effective planning at the local level because of the small size of municipalities. Others were seeking ways to make regional models work. It was generally agreed that municipalities will not re-organize of their own accord, and that provincial governments will have to take a leadership role in moving their province toward a system of regional governance.

Alberta

In Alberta, it was also indicated that implementation of regional strategic planning would help ensure municipal planning and development is consistent with regional goals and objectives. Generally, the municipalities favour cooperative voluntary arrangements for regional strategizing. It was said that the province had “abandoned” regional planning frameworks, impeding the resolution of a number of regional issues.

An example of such cooperative and voluntary organizations is Alberta’s Capital Region Alliance (ACRA). Comprised of Leduc, Parkland, Strathcona and Sturgeon Counties, the Alliance includes five cities (Edmonton, Fort Saskatchewan, Leduc, Spruce Grove and St. Albert) and 13 towns and villages. The Alliance is governed by a Board, consisting of the mayors and reeves of all member municipalities. An urban/rural power sharing arrangement involves two Chief Administrative Officers each representing the cities and rural areas. The ACRA seeks regional solutions to such problems as communication, transportation, economic development, municipal services, regional leadership and regional development. Since 1998, transportation planning has seen the successful implementation of financial commitments for a number of projects, including highway construction and designs for LRT extensions⁴⁷.

Saskatchewan

The size of planning units and the need for regional planning takes on added importance in Saskatchewan. The province has many small municipalities which are limited in financial and staff resources and in the scope of the initiatives they are able to undertake. Restructuring of municipal boundaries or establishing a framework for larger planning units could create an opportunity for improved land use planning. The large number of small jurisdictions also increases competitiveness, creating an attitude of permissive development.

⁴⁷Alberta Capital Region Alliance. (2000). *ACRA Five Year Transportation Plan 2000 Update*.

In Saskatchewan, policies are enforced somewhat differently in incorporated as opposed to unincorporated territory. In southern rural areas, unincorporated hamlets are a part of the rural municipality in which it is located and subject to the policies of the municipality. In the north, northern municipalities are responsible for community planning. In unincorporated areas, the minister has the responsibility to act as the council on behalf of a northern settlement or the Northern Saskatchewan Administration District.

Manitoba

In Manitoba, provincial policies apply to all areas except the City of Winnipeg. Currently, the *City of Winnipeg Act* includes a section on provincial interests, similar in content to the provincial land use policies. The province is considering revision of legislation so that the policies themselves apply to the City, but concedes urban policies would have to be considerably strengthened for this to be a viable option.

Although inter-municipal and regional matters are currently being dealt with on an ad hoc basis, Manitoba is looking at mechanisms to foster collaboration among the municipalities in the capital region. Attempts to foster more coordinated land use planning in the the region surrounding Winnipeg has been a consistent theme for several decades; during the 1990s, this took the form of discussions, workshops and planning documents concentrating on “the Capital Region.” While this title does not refer to a legal entity, and has no actual authority, it does have proposed boundaries and continues to be the focus of planning efforts, most recently a public discussion paper titled *Strengthening Manitoba’s Capital Region: General Principles and Policy Directions*. These efforts are coordinated by the Regional Planning Advisory Committee (RPAC) , which was appointed by the provincial government on September 20th, 2001. While eschewing the formation of another level of government, the RPAC promotes regional land use planning (with an emphasis on water resources), intermunicipal cooperation and tax-sharing, regional public consultation and sustainable development.

In some rural areas, it is difficult to establish a regional governance structure, such as a planning district, as there is the perception that the concerns of larger urban centres are very different from those of the small farm communities surrounding them. Furthermore, the province does not offer a viable alternative to inter-municipal cooperation or a regional governance structure other than Planning Districts.

One of the problems with small local jurisdictions is they often do not have adequate planning capacity. In Manitoba, for instance, small municipalities hire provincial planners as consultants. However, because the planners are paid by the municipality, the latter has become the “client” and is thus more able to dictate its terms. Often, provincial planning staff placed in this position submit plans and bylaws that may not be harmonized with provincial policy.

New Brunswick

The difference in service needs and demands among urban, urban fringe and rural areas immediately adjacent to urban areas are not reflected in current governance structures. It should be more clearly

determined what level of services is appropriate for these three types of regions, how they should be paid for and by whom. Current governance structures do not realistically reflect the type of land use occurring in the urban fringe, resulting in under-regulation with regard to residential development. The Report of the Municipalities Act Review Panel (1999), entitled *Opportunities for Improving Local Governance in New Brunswick*, calls for a more effective working relationship between municipalities and Local Service Districts (LSDs) and a stronger regional framework. It also recommends the establishment of Rural District Authorities with a strong advisory and some local decision-making authority in areas including planning. The review panel found that there is a steady movement of residents from municipal to unincorporated areas, a trend that will likely escalate.

Although regional planning is permitted in New Brunswick's legislation, no regional plans have been prepared to date. District planning commissions, which can prepare plans for municipal and rural areas within their jurisdiction, have met with more success. Such commissions can prepare plans for municipalities and unincorporated areas. However, a Minister's Round Table on Governance has been convened to look into the problem and make recommendations regarding this issue of unincorporated areas, which continue to pose problems in terms of land use planning.

Nova Scotia

Nova Scotia is the only province in Atlantic Canada with no unincorporated areas. Since regional councils may prepare individual plans for particular urban and rural areas within their jurisdiction, regional planning can be effective while preserving the identities of local communities.

Prince Edward Island

The vast majority of Prince Edward Island (30% of the population, and 70% of the land area) is unincorporated, and thus planning falls under provincial jurisdiction. In terms of planning However, there is growing recognition that rural areas require more stringent land use controls than are currently in place, with major rural residential pressures on farmland as well as serious environmental issues such as soil erosion and water quality.

Newfoundland and Labrador

Newfoundland has large unincorporated areas (more than 90% of the land area), and it is believed that the present planning units are appropriate in terms of settlement and service provision. Some municipal boundaries have been expanded to include unincorporated areas adjacent to the municipalities, particularly in the case of more isolated municipalities. Although Local Service Districts provide services in unincorporated areas, they do not have planning authority. While there has been talk of moving to regional governments, many rural areas are worried this would place urban concerns above their own.

British Columbia

British Columbia has a well-defined regional planning structure. Within the newly created Ministry of Community, Aboriginal and Women's Services (CAWS), the Department of Intergovernmental Relations and Planning advises on regional growth strategies and supports community planning. The department coordinates the efforts of nine Regional Districts within the three "High Growth Regions" of Southern Vancouver Island, the Lower Mainland, and the Okanagan Valley.

However, some municipalities have pointed out such regional planning has diminished their ability to control or have input into planning the community's periphery. The new *Local Government Act* impedes inter-municipal collaboration. It was also suggested the present regional structure increases conflict, since municipalities are excluded from voting on planning functions with regard to some issues. The creation of a county system would circumvent many of these problems by ensuring there is representation by population for the entire county area, as opposed to the current system where small enclaves elect area (regional) directors.

The province's Regional Growth Strategies (RGS) allows municipalities to work together to address common areas of concern and issues that overlap jurisdictions. It is seen as an effective tool to encourage regional planning. Many regional districts in British Columbia contain large areas of unincorporated or rural lands, and thus help foster an integrated approach to rural and urban planning. Still, as elsewhere, regional co-operation is difficult to achieve, particularly with regard to issues such as transportation, sewer and water, and planning green space. One provincial respondent stated that despite the existence of RGS, amalgamation is needed in some parts of the province, particularly around major urban centres.

One respondent indicated that maintaining a balance of power within the Greater Vancouver Regional District (GVRD) is difficult. The voting structure of the board allows the smaller municipalities to unite and outvote the major urban centre, the City of Vancouver. The GVRD has not been able to satisfactorily resolve issues around transportation planning in the region.

It was said the local government structure in rural areas should move toward a county or township model giving rural communities local autonomy, real authority and legitimate responsibilities. It was also noted that it is difficult to develop a comprehensive planning program when land use is disconnected from service responsibility and resource management agencies. Rural areas lacked the political voice of their urban counterparts since rural interests are "filtered" through the regional districts and electoral area directors. It was reported that these expressions were biased because of the way the regional districts are structured, diminishing the voice of rural communities.

From a regional perspective, British Columbia's move toward regional planning allows for a consistent regional approach in terms of planning vision and direction. Nevertheless, it was conceded that there are too many opportunities for unwilling municipal participants to undermine the process. Furthermore, there are so many requirements for inter-municipal agreements that it can be difficult to get anything done. Consequently, plans can take incredibly long to develop, leaving the region without a strong direction with regard to land use for extended periods. It was reported that the system was desirable overall, but required more provincial leadership to ensure that the process does not get bogged down.

One respondent described regional districts as serving as the legal/financial bridging mechanism between municipalities. It is, however, the municipalities themselves that negotiate agreements with

respect to land use planning.

Inter-municipal conflicts within regions run the gamut of urban and rural differences, including funding disputes for shared services, uneven provincial downloading of powers, land use, wealth distribution and resource depletion or impacts.

Ontario

Ontario has seen a substantial amount of restructuring over the last several years. The best-known case is, of course, the amalgamation of Toronto as a megacity. The logistics required for this amalgamation is manifest in Toronto's new official plan (May 2002), requiring the condensing of seven municipal planning documents into a single plan. However, the surrounding areas, too, have been restructured, as townships, towns and villages have been regrouped into larger municipalities. A system of "separated" towns and cities allows some unique centres to maintain their original form.

Some regions have developed innovative mechanisms to facilitate regular and ongoing dialogue between the region's planning staff and its four local municipalities, as well as certain provincial ministries. This dialogue is facilitated through the Halton/Provincial Liaison Committees. Halton has developed a number of such committees to address issues around natural resource management, the environment and transportation. In a similar vein, other local governments have formed Municipal Liaison Committees to discuss issues of mutual interest with surrounding municipalities.

Regional respondents stated that the delegation of approval authority and the clear delineation of jurisdiction between the region and its municipalities had contributed greatly to the minimization of conflict in the region. Moving to directly-elected regional councils has improved the balance in regional representation (previously, representatives to the regional councils had been appointed by local councils). Currently, smaller communities in the region hold more power than they would otherwise have under a proportional population system. The Regional Chair is also elected by the region's voting population.

A primary difference between the (newer) regions and (older) counties is the governance structure. While regions are governed by directly elected councils, County Councils are made up of appointed representatives from the respective municipal councils. Because the council is made up of local politicians and focused on local issues, the agenda is driven, to a greater extent, by partisan politics.

Extensive restructuring in Ontario has caused considerable friction at the local level, due to historical rivalry between local governments, concerns about potential loss of municipal autonomy and identity and competition over assessment. However, restructuring can result in better physical planning, more logical and efficient growth patterns and a co-ordinated approach to economic development. At the same time, respondents cautioned amalgamation on too large a scale could result in the loss of sense of community and effective planning control.

In the Toronto Area, the Greater Toronto Services Board (GTSB) played a number of important co-ordinating roles. Among its responsibilities was to address inter-municipal conflict. While the GTSB is being disbanded, it appears the province intends to establish another board to address

issues in the Greater Toronto Area.

Quebec

Quebec, with its MRC model, has a long tradition of regional governance structures. MRCs experiencing population and economic decline indicated that regional planning has helped them cope with these circumstances, pooling municipal services and strategically focussing activities within the region. The MRC indicated that regional strategies are in place to support entrepreneurship, retain young people, promote sustainable forestry practices, develop the agricultural and tourism sectors and maintain an acceptable standard of infrastructure and services for the population.

The views of local government respondents regarding amalgamation varied considerably depending on whether large-scale amalgamations had been carried out in their jurisdiction. In areas where a limited number of amalgamations had taken place, and there existed a sense of community, the municipalities saw the process favourable. Amalgamation was seen as a way to contribute a greater coherence in planning and development and will allow resource pooling which should improve service delivery. Respondents from municipalities which had recently experienced amalgamation were concerned the voice of smaller municipalities might be sidelined because they cannot outweigh the larger municipalities. Some argued that economies of scale and more efficient use of resources can be attained by other means than amalgamation, in particular by joint service agreements which would still maintain local autonomy and control.

The province says creating new administrative structures around some of the larger municipalities such as Montreal and Quebec City will improve administration and planning, particularly in terms of transportation and urban sprawl. It is hoped that amalgamation will enable metropolitan areas to address regional issues more coherently.

The MRC structure in Quebec is useful for planning in an integrated way. However, voting in MRCs is directly linked to the population in each local municipality, resulting in some disparities among communities. Some local respondents perceived an imbalance in the decision-making processes, where bigger municipalities may “outvote” smaller ones. This dynamic is not a major issue for rural MRCs, but is particularly pressing in metropolitan regions.

Respondents in the Montreal Metropolitan Area reported that the changing policies as to the role and status of the MRCs have not favoured intermunicipal cooperation but rather increased tensions between local municipalities and weakened the MRCs. The recent creation of the *Communauté métropolitaine de Montreal*, the replacement of the Montreal Urban Community by the new city of Montreal, and the numerous amalgamations leading in some cases in the disappearance of MRCs, are not viewed positively. In the Outaouais, successive provincial governments created the *Communauté régionale de l’Outaouais*, then split it in two, and finally replaced it with the new city of Gatineau. These decisions may, in the absence of a strong arbitration or negotiation mechanism, lead to incoherent land use planning and worsen urban sprawl.

It was also noted that integration between land use planning and planning for development is difficult because of the lack of institutional integration between the MRC and *Centres Local de Développement* (CLDs, or local development centres) that support businesses and entrepreneurs.

Requiring the preparation of plans at the regional level was seen by some local governments as one of the system's greatest strengths. In particular, the system's ability to foster regional collaboration among municipalities was highlighted.

Increasing cooperation among regional administrations has led to the development of joint projects and formal agreements. Such initiatives include shared landfills and recycling facilities, or larger initiatives such as transportation, recreation, natural resource and watershed planning. One MRC noted that inter-regional cooperation can save on infrastructure and service costs, allowing better response to environmental issues.

Within MRCs, inter-municipal cooperation is strong and growing. Inter-municipal cooperation may include the following components:

- municipal services: evaluation, planning, civil engineering, forestry, and fire protection;
- intermunicipal governance: regional park planning and management, waste management;
- delegation of responsibilities: municipal inspections, development of local regulations; and
- intermunicipal agreements regarding the use of equipment to deliver municipal services.

One MRC reported that the region was well balanced in terms of urban and rural representation, with one major centre, two regional centres, and a number of smaller communities. However, it was said that the major centre is growing even as smaller communities are declining, changing the region's equilibrium. This was identified as an important trend affecting future planning in the region. It was noted stronger provincial policies for regional development were required to address this issue, and planning and economic development should be more closely linked. Another MRC said that the arrival of a major industrial enterprise in one of its cities had similarly led to the need for a realignment of municipal relations, indicating that where regional governance exists, the balance of power must constantly be renegotiated to reflect changing circumstances. Regional governance works best in relatively homogenous, regions that don't have stark urban/rural contrasts.

Quebec's government is committed to decentralizing its responsibilities to the regional level, which is seen as positive by local government respondents. One indicated, for example, that management of natural resources continues to be centralized. The respondent said that decentralised management was necessary in this area, to ensure sustainable management and job protection.

Although MRCs are a useful unit allowing for the coordination of a number of planning activities, one respondent said there are too many types of planning units to work with, including not only those of the various ministries but school districts and agricultural units. Others indicated, however, that the planning system enables the integration of various types of planning units. Overall, the provincial/regional/local system works very well. It was said, however, that effective implementation requires both resources and political will.

Northern Territories

In the North, regional government is being introduced through the land claims settlement process. While regional governance now occurs only in settlement claim areas, the potential exists for

development agreements to be developed between municipalities and adjacent First Nations once the settlement of land claims is completed. While it was agreed regional governance would be a positive step, some expressed concern about the logistics of coordinating the existing four levels of government (federal, First Nations, territorial and local) and creating yet another jurisdiction.

There are no regional public governments in the Northwest Territories and INAC does not prepare regional land use plans. Aboriginal Land Claim groups, including the Inuvialuit, Gwich'in and Sahtu, are required and have prepared regional land use plans for their settlement lands. Land within community boundaries is excluded. DIAND, stemming from their interest in economic development, species at risk and NWT Protected Areas Strategy, coordinate with these aboriginal groups to prepare their regional land use planning documents.

CONCLUSION: BEST PRACTICES AND INNOVATIVE APPROACHES

Based on the foregoing, we have identified some of the following practices as representing exemplary processes that are worthy of emulation in other jurisdictions. (The following categories, while used for clarity, are not mutually exclusive and some practices are included under several headings. Many topics related to urban development issues are included under the heading of *Governance and Regional Planning Models*).

1.) Water:

In part because of the recent tragedy in Walkerton, Ontario, water quality was of major concern across the country. Many respondents specifically cited the tragedy, and noted it had affected land use policy development in their jurisdiction. Concerns with water quality were not limited to drinking water, however; many respondents expressed a need for watershed planning and improved integration between planning jurisdictions for land and water.

The provinces and territories taking noteworthy steps towards addressing these issues are:

- **Alberta:** The province is in the process of developing a *comprehensive water management strategy*.
- **Saskatchewan:** The *Saskatchewan Watershed Authority* consolidates water management responsibility previously held by three different departments.
- **New Brunswick:** In order to provide for watershed, well-field and aquifer protection, the government provides *assistance and advice* to non-profit community watershed groups.
- **Nova Scotia:** Planning documents are required to *identify water supply watersheds* within the planning area.
- **Yukon:** *Water Management Plans* supercede land use plans.
- **Northwest Territories:** Attempts are underway to *integrate water and land use planning*

2.) Agriculture:

Agriculture was another major point of concern, both in terms of protecting the agricultural land base and planning for new and traditional farming practices. Only two of the provinces have agricultural land reserves in place to prevent any non-rural development in specifically designated rural areas. In Ontario and Prince Edward Island in particular, pressures to develop agricultural lands are causing considerable pressure in the urban fringe and the rural hinterland. In other regions, such as the

Prairies, intensive livestock operations present the greatest challenges at present. Without adequate planning, this relatively new form of large-scale livestock production has the potential to seriously compromise the environment and rural residents' quality of life. In many cases, current policy is recognized as being inadequate to accommodate this type of development, and provinces are moving rapidly to develop an appropriate policy response.

The provinces and territories taking noteworthy steps towards addressing these issues are:

- **New Brunswick:** *Rural Plans* are in place that are less elaborate than urban plans, and better able to respond to rural needs.
- **Newfoundland:** The recently-passed *Farm Practices Protection Act* aims to limit the extent to which non-farm rural land uses can impinge upon agricultural uses.
- **British Columbia:** *Agricultural Land Reserves* protect farmland, and the “*Strengthening Farming*” initiative aim to develop partnerships between farmers, communities and government in order to prevent land use conflicts.
- **Quebec:** Two pieces of legislation *protect agricultural land* and *practices* from residential, non-farming uses. The implementation of these acts is overseen by a *Commission for the Protection of Quebec's Agricultural Lands*.

3.) **Urban Areas:**

Many respondents, noting the difficulties in formulating uniform legislation that accommodates both small rural communities and large metropolitan areas, believe current policy statements do not adequately detail provincial interests in urban areas, particularly in large urban centres. Many fringe and ex-urban developments have been highlighted as major concerns, and often result in inter-municipal friction. Clearly, municipal jurisdictions alone cannot plan for metropolitan areas, and more regional approaches are required (see *Governance and Regional Planning Models*, below). A number of provinces have important regional governance structures in place around their major urban centres (i.e. the Greater Vancouver Regional District, and the new Montreal Metropolitan Community). However, there is no clear consensus as to the policies and roles provincial governments should adopt vis à vis their largest cities. Many governments have indicated that strengthening urban planning policy is a priority, but few have a clear strategy of how to go about it.

The provinces and territories taking noteworthy steps towards addressing these issues are:

- **Nova Scotia:** Municipalities are able to levy development charges on developers for capital projects necessitated by new subdivisions.
- **Prince Edward Island:** Special Planning Areas restrict and discourage leapfrog development around urban areas.

- **Ontario:** The *Smart Growth Initiative*, with associated Secretariat, aims to encourage more thoughtful urban development, particularly in regards to transportation, waterfront development, and the protection of natural areas.

4.) **Environment:**

Environmental protection and “sustainable development” ranked high on the list of priorities in all jurisdictions. The issues ranged from sustainable resource management and improvement of air quality to the protection of ecologically sensitive areas such as coastal regions and habitat preserves, and sustainable management of parks and recreation areas. Many provinces and territories indicated a need to incorporate the concept of sustainability into their legislation, and that there was a need to better integrate land use planning and environmental protection.

The provinces and territories taking noteworthy steps towards addressing these issues are:

- **Alberta:** The province uses a *Sustainable Development Coordinating Council (SDCC)* to coordinate and makes recommendations on interdepartmental matters related to sustainable development and environmental protection.
- **Saskatchewan:** The province protects habitat through a *Representative Areas Network* which seeks to protect sites representing the province’s 11 ecosystems.
- **Manitoba:** The efforts of departments involved in land use issues are coordinated through the *Interdepartmental Planning Board (IPB)*. Specific land use and environmental issues are also addressed by Technical Advisory Committees (TACs), whose expertise is utilized to guide decision-making. The province also has in place a *Natural Lands and Special Places Strategy*, which is the cornerstone of provincial efforts to establish a network of representative habitats free from development and extraction. Farmers are also encouraged to take advantage of *Green Banking*, which helps preserve riparian habitats.
- **New Brunswick:** The province is moving towards an ecological systems approach, and has established a dedicated *Sustainable Development Branch*.
- **Prince Edward Island:** *Special Planning Areas* allow the province to introduce special land use regulations to curb strip and leapfrog development.
- **Ontario:** The province has created two large scale eco-region plans supported by dedicated legislation: the *Niagara Escarpment* and *Oak Ridges Moraine Plans*. In addition, the *Living Legacy Land Use Plan* provides land use and resource management direction for Crown Lands and resources, and will create new habitats for endangered species and expand park and protected areas system.
- **British Columbia:** The *Islands Trust Act* preserves and protects environments within a “Trust Area”, but does so in conjunction with a Trust Council made up of representatives from affected municipalities. The province also has a *Protected Areas Strategy* which has

exceeded its original goal of protecting 12% of the province from development. *Transboundary mechanisms*, such as the Georgia Bay Ecosystem Initiative, also permit cross-border planning with the United States.

5.) Governance and Regional Planning Models:

Governance was a significant issue in nearly every province and territory. In Newfoundland and New Brunswick, the priority was to create stronger planning and better representation in the large unincorporated areas. In other jurisdictions, and particularly in Saskatchewan and the North, the difficulty of delegating planning authority to the local level was attributed to the small size of many communities and municipalities. Regional planning was seen as particularly important in rural regions experiencing a decrease in population and economic decline. Although they do not fall within territorial jurisdiction, First Nations land claim settlements were a major issue in the North and in British Columbia. Finally, almost every jurisdiction stated that a move toward a regional model of planning was necessary to more effectively address contemporary land use issues, including environmental sustainability, resource management, growth management and economic development. Though the solutions will be different for each province, there was a sense that governments are searching for models of regional planning appropriate for their context.

Approaches addressing governance include:

Legislation and Departmental Integration:

- **Alberta:** The *Integrated Resource Planning* program guides the management and allocation of public land, largely through the use of zoning. A *Regional Steering Group* develops strategies that are then submitted for approval by interested departments. The province also has a *Sustainable Development Coordinating Council* (SDCC) that coordinates and makes recommendations on interdepartmental matters related to sustainable development and environmental protection.
- **Saskatchewan:** Joint authority for planning on Crown land is shared between Saskatchewan Agriculture and Food, and Saskatchewan Environment and Resource Management. An *Integrated Resource Management Process* enables coordinated planning.
- **Manitoba:** The efforts of departments involved in land use are coordinated through the *Interdepartmental Planning Board* (IPB). Land use and environmental issues are addressed by *Technical Advisory Committees* (TACs).
- **Prince Edward Island:** A *Land Use Coordinating Committee* (LUCC) including representatives from seven departments, coordinates land use planning.
- **Newfoundland:** *Local Planning Areas* grants municipalities authority to plan for lands adjacent to them.

- **British Columbia:** The *Land Use Coordination Office* develops policy for and coordinates all aspects of strategic land use plans, while the Ministry of Community, Aboriginal and Women's Services *coordinates efforts* of nine regional districts with the three "high growth regions" of the south.
- **Ontario:** The province utilizes *Regional-Provincial Liaison Committees* to facilitate communication between regional planning staff and local municipalities.
- **Quebec:** *Interdepartmental integration* is built into policy. Drafts of plans are circulated to concerned departments to avoid conflicts. Opportunities for dialogue and negotiation are built into the planning process. All relevant pieces of land use planning legislation is written in such a way to reference one another and are thus highly integrated.
- **The Northern Territories:** *Integrated planning* in areas where First Nations land claims have been settled takes into consideration the economic needs of the local population, as well as environmental sustainability and traditional land uses.
- **Northwest Territories:** The *circulation of plans* to a wide range of stakeholders prior to adoption encourages communication and consensus-building.

Mediation:

- **British Columbia:** The province has in place *Alternative Dispute Resolution* mechanisms.

Incorporating Community Capacity-Building into Planning:

- **British Columbia:** Significant *public consultation* is required in community and Crown land planning. The province also provides technical and financial support to jurisdictions without Official Community Plans or Regional Growth Strategies – as opposed applying punitive measures.
- **Quebec:** Referenda allow citizens to oppose proposed planning action. The province also takes a consensus-based approach. Quebec's elected officials have a direct say in planning issues.
- **Yukon:** The territory utilizes extensive consultation and consensus-building in its planning process. Citizen planning teams, outreach and education with communities, bands and local councils figure prominently.

Official Plans:

- **Ontario:** The *Oak Ridges Moraine Plan* and the *Niagara Escarpment Plan* ensure that development plans are sensitive to eco-regional priorities.
- **Quebec:** All pieces of land use planning legislation references the others, creating a highly integrated policy environment
- **Yukon:** Plans are prepared by *Regional Land Use Planning Commissions* and linked to all other land use and planning processes of the government or First Nations

Regional Planning:

- **Alberta:** The province encourages *inter-municipal collaboration*. The best example is the *Capital Region Alliance* which encompasses five cities and 13 towns in the Edmonton region.
- **Nova Scotia:** The province's *county system* facilitates regional planning, *inter-municipal cooperation* and *binding inter-municipal planning strategies*.
- **Newfoundland:** Development in *Regional Planning Areas* is overseen by a *regional planning authority* designated by the Minister of Municipal and Provincial Affairs.
- **British Columbia:** The province has in place *Regional Growth Strategies* which guide development decisions regarding a wide range of concerns and must take into account a 20-year time-frame. *Intergovernmental Advisory Committees* are required to oversee such strategies.
- **Quebec:** Nearly all municipalities in the province are grouped into the basic planning unit of *Regional County Municipalities*, which must develop regional development plans. Among the purposes of these plans are such concerns as fostering intermunicipal cooperation; incorporating sustainable development guidelines into planning activities, and providing planning guidelines for municipalities.

Performance Measures:

- **New Brunswick:** The province is moving towards setting performance standards.
- **Prince Edward Island:** The province has a history of monitoring performance of planning efforts.
- **Ontario:** *Municipal Performance Measures Program* increases extent of municipal accountability.
- **Yukon:** Regional plans are monitored for compliance.

Conclusion

This study has revealed some consistent strategies that appear to be highly effective and are gaining support in a number of jurisdictions:

- Regional planning;
- Ensuring plans are consistent with sustainable development objectives;
- Ecosystem planning; and
- Interdepartmental coordination.

The common thread connecting all of these themes is that of a drastically increased sense of *scale*. This study emphatically demonstrates that the days of plans that simply provide for orderly urban development in a single jurisdiction, and are aimed at satisfying an ill-defined “general public” over a short period of time, are gone.

Instead, planning is becoming increasingly *holistic*, integrating multiple aspects of human-environment interactions over the long-term, and reflecting a wide range of economic, social, and ecological values held by “*multiple* publics”. Many plans and planning processes have embraced cooperation and collaboration between bureaucracies and whole governments, and, significantly, have done so with the recognition that sound ecosystems have intrinsic worth beyond their value to any one governmental body. Consistent with trends in our rapidly “globalizing” world, planning in Canada is erasing distinctions between borders and recognizing the interconnectedness of policy, environments, economies and development.

Finally, the results of this study show that, above all, the success of such plans is becoming ever-more dependent upon the extent to which governments engage the cooperation and participation of citizenry. The liberal flow of information and communication, combined with community outreach and consensus-building, is allowing Canadians to gain a greater sense of ownership in, and responsibility for, their built and natural environments.

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Appendix A

Acronyms

ACRONYMS

General

ILO: Intensive Livestock Operations
IRM: Integrated Resource Management
LSD: Local Service Districts

By Province and Territory

Alberta

MGA: Municipal Government Act

British Columbia

CORE: Commission on Resources and Environment
GRVD: Greater Vancouver Regional District
GSO: Growth Strategic Office
GVTA: Greater Vancouver Transit Authority
IAC: Intergovernmental Advisory Committee
IMAC: Inter-Agency Management Committee
LGA: Local Government Act
LRMP: Land and Resource Management Plans
LUCO: Land Use Coordination Office
OCP: Official Community Plans
RGS: Regional Growth Strategies

Manitoba

COSDI: Consultation on Sustainable Development Implementation
IPB: Interdepartmental Planning Board

New Brunswick

CLURE: Commission on Land Use and the Rural Environment

The Northwest Territories

INAC: Indian and Northern Affairs Canada
MACA: Municipal and Community Affairs
MVRMA: Mackenzie Valley Resource Management Act
NWT HC: Northwest Territories Housing Corporation

Nova Scotia

MGA: Municipal Government Act
MPS: Municipal Planning Strategies
SNSMR: Service Nova Scotia and Municipal Relations

Nunavut

DIO: District Inuit Organizations
NPC: Nunavut Planning Commission

Ontario

GTA: Greater Toronto Area
MMAH: Ministry of Municipal Affairs and Housing
MNR: Ministry of Natural Resources
MOE: Ministry of the Environment
OMAFRA: Ontario Ministry of Agriculture, Food and Rural Affairs
OMB: Ontario Municipal Board
PPS: Provincial Policy Statements

Prince Edward Island

IRAC: Island Regulatory Appeals Commission
LUCC: Land Use Coordination Committee
SPA: Special Planning Areas
RWED: Resource Wildlife and Economic Development

Saskatchewan

MAH: The Department of Municipal Affairs and Housing
SAF: The Department of Saskatchewan Agriculture and Food
SERM: The Department of Saskatchewan Environment and Resource Management

Yukon

(Y)PAS: (Yukon) Protected Area Strategy
UFA: Umbrella Final Agreement

Documents and Reports

CLURE: Commission on Land Use and the Rural Environment (New Brunswick)
COSDI: Consultation on Sustainable Development Implementation (Manitoba)

Appendix B

Provincial and Territorial Questionnaire (English Version)

Land Use Questionnaire for Contacts at the Provincial Level

Part A: Policy

1. LEGISLATION

The following section will deal exclusively with primary enabling legislation, such as planning and municipal acts. Acts respecting agriculture, the environment, etc. may be touched on as necessary.

- a) What do you consider the most important pieces of legislation governing land use decisions in your province/territory?
- b) How do these pieces of legislation interrelate (i.e. through references to other pieces of legislation, joint impact review processes and/or through provincial structures that coordinate land use planning at the provincial level)?
- c) Does current legislation effectively address contemporary land use issues, or is there a need for revision? If revision is needed, please elaborate.
- d) On a scale of one to five, how strong would you consider your planning legislation to be? (1= strong and 5= weak; and strong is defined as: substantial updating of legislation, planning required at local level, plans must meet a range of specific criteria, province has developed land use policies, province certifies/approves local plans).

2. PROVINCIAL LAND USE POLICIES

The following section deals with provincial land use policy, guidelines and interests statements. Because many provinces have indicated that they are currently making substantial additions to their policies, planned future policies should also be included in this section.

- a) Are provincial/territorial land use policies in place? In the process of being developed?
(if **YES** answer questions below, if **NO** proceed to next section)
- b) How vigorously are provincial policies applied to land use planning decisions (do decisions have to respect these guidelines or are they just recommendations that municipalities are encouraged to follow)?
- c) Are there some land use policies that municipalities are more likely to ignore than others?
- d) Do you feel that local government plans adequately respect Provincial Land Use Policies?

e) Do policies clearly reflect provincial interests to be protected?

3. POLICY IMPLEMENTATION

This section deals specifically with how the legislation (including policies) mentioned above are implemented. A more general discussion of process follows in Part B.

a) How does the province ensure legislation is enforced and that its interests in land use are protected? (i.e. approval of plans, detailed provincial policy etc.)

b) Does this translate into effective practice? If yes, please provide a brief description. If no, please indicate why.

c) Are there differences in the way policies are enforced in incorporated territory as opposed to unincorporated territory?

d) What are the consequences of local governments not conforming to provincial legislation?

e) How does the province balance protection of provincial interests and flexibility to accommodate different local situations?

f) Are there any specific pieces of planning legislation which are simply not enforced?

g) What types of policies or approaches to implementation seem to work best?

h) What types of performance measures, monitoring or reporting mechanisms are used to ensure land use policies and legislation are effective?

i) Overall, has policy and legislation achieved the intended results?

4. UNINTENDED CONSEQUENCES

This section aims to identify specific weaknesses of current legislation (including policies), recognizing that this does not necessarily imply that the legislation is ineffective overall.

a) What are some of the financial or unintended consequences of land use policies and legislation?

5. OTHER DOCUMENTS AND POLICY DIRECTION

This section seeks primarily to identify potential policy directions the province/territory might take, but also to identify new land use issues which are developing and weaknesses or gaps in the current system.

- a) Are there documents (other than official legislation and policy statements) that have a strong influence on policy direction? (i.e. reports, reviews etc.)
- b) Are there any initiatives underway to change/develop policy or processes related to land use?

Part B: Process

1. DEPARTMENTS INVOLVED

This section aims to identify all the departments involved, to a greater or lesser extent, in land use planning. A secondary aim is to gain a sense of what issues are seen as relevant to land use planning by the province/territory.

- a) What government departments/ministries/agencies (i.e. crown corporations) do you feel are most influential in setting and influencing land use policy?
- b) What other government departments have policy that affects land use?

2. POLICY DEVELOPMENT

This section aims to identify which forces lead to development of new land use policy, and who is considered a stakeholder in the planning process.

- a) How does the development of new land use policy in the province take place? (Who initiates, who is consulted, who is considered a stakeholder, both governmental and public/private).
- b) How are “public interests” defined in the context of policy development?

3. LEVEL OF COORDINATION

This aims seeks to determine whether the province/territory has the capacity to address land use issues in a comprehensive manner.

- a) Is the planning process at the provincial/territorial level integrated/coordinated across the necessary departments, or is it fragmented, involving many departments/ministries/agencies? Please cite examples of integration/coordination or of fragmentation.

4. LOCAL GOVERNMENT

This section aims to determine the level of involvement of local government in the land use planning process, what level of involvement the province considers appropriate and why.

- a) Do you feel local government has too little or too much involvement in the development of provincial policy? Please elaborate, especially if municipalities play a significant role. How are they involved in the process, and to what extent? If applicable, address the role of organizations such as provincial associations of municipalities.
- b) Does the Planning Act permit innovative local approaches to addressing local issues?
- c) Would you characterize local government as having a low, moderate or high degree of autonomy with respect to land use planning within its boundaries?
- d) Is the province in the process of transferring more land use authority to the local level? If yes, what is the rationale behind this transfer and how is the province ensuring its interests will continue to be protected?

5. LOCAL CONSULTATION

This section seeks to determine the extent to which the public is consulted with regard to land use issues, the importance of public consultation to the planning process, and what mechanisms exist to facilitate public consultation.

- a) Is there an adequate level of local decision-making and public consultation built into the planning process, to ensure that local views are addressed in provincial decisions? What role does the public have in the planning process, and how important is its voice?

6. MECHANISMS TO RESOLVE CONFLICT

This section aims to determine the capacity of planning systems to respond to and resolve land use conflict.

- a) What types of problems do you currently encounter in implementing planning policies?
- b) What mechanisms are in place to resolve land use conflicts, and how effective are they?
- c) Who interprets land use policy when the intended meaning of certain provisions is subject to debate?
- d) Is there a role for mediation/arbitration or informal consensus-building prior to tendering a proposal? If yes, are these permitted, encouraged or required?

e) To what extent do local governments and the public support provincial land use planning approaches and trust their ability to arrive at acceptable development decisions?

Part C: Land Use Issues

1. MAIN LAND USE ISSUES

This section aims to identify specific land use issues which are relevant in the province/territory, and determine how efficiently they are addressed.

- a) What do you feel are the most important land use/land use management (i.e. governance) issues in the Province?
- b) How do these issues vary by area of the province?
- c) What relevant land use issues are not adequately addressed by current legislation?
- d) Do you feel that changes could be made to policy or process to better address these issues? Please explain.

2. LARGE CITIES

This section aims to determine the effectiveness of provincial policy in responding to land use issues of large urban centres and their impacts on the surrounding region.

- a) Do the large metropolitan areas in your jurisdiction have a separate act or charter, and if so, how does this affect governance?
- b) What are the main land use/related governance issues surrounding (name primary urban centre[s] in region)?
- c) How does provincial legislation address these issues? Is it effective?
- d) What changes, if any, do you feel are necessary?

3. PLANNING UNITS

This section aims to establish whether the established units of planning promote effective land use planning and how the province/territory deals with unincorporated areas.

- a) On balance, does the scale of current planning units facilitate effective land use and governance practices? If not, how could the planning system be restructured (in terms of planning units) to make it more effective?
- b) What types of limitations are entailed by the current type of planning units used?
- c) Does your province/territory have unincorporated areas and, if so, does this present governance problems with regard to land use planning?

4. INTEGRATED RESOURCE MANAGEMENT

This section aims to determine the degree to which the province/territory uses IRM, and for what types of land use planning it would be useful or viable to implement.

- a) Has your region incorporated components of Integrated Resource Management (IRM) into land use planning? If yes, explain. If no, would you consider this type of approach to be appropriate and in what areas of planning?

Part E: Conclusion

This section aims to gain a general sense of what land use planning practices are effective, what factors are currently influencing the direction of land use planning and what the planning priorities are/should be for the next decade (or more).

1. IMPACT ON DIRECTION

- a) What factor would you identify as the most influential in shaping the direction of land use planning at the moment (can be a land use issue, i.e. urban sprawl or environment, a governance issue i.e. non-incorporated territory, or a general government philosophy i.e. streamlining and accountability).

2. BEST PRACTICES – OWN JURISDICTION

- a) Is there any legislation, program or governance structure in your province/territory which you would consider particularly innovative and effective?
- b) Is there any legislation, program or governance structure in your province/territory which might be effective in other jurisdictions?

3. BEST PRACTICES - OTHER JURISDICTIONS

a) Which provinces or territories would you consider to have highly effective, workable land use policy frameworks? Why?

b) Is there a particular piece of legislation, or a program in other jurisdictions that you feel is quite effective? Would it work in the (Manitoba) context?

4. THREE CHANGES

a) If you were allowed to make three changes to improve the effectiveness of land use policy in the province/territory, what would the changes be?

5. FUTURE DIRECTIONS

a) What new directions do you anticipate provincial land use planning may take in the future?

Appendix C

Local Government Survey (English Version)

Municipal/Local Government Land Use Planning Questionnaire

Thank you for agreeing to complete the Municipal/Local Government Land Use Planning Questionnaire. We appreciate your taking the time to help us in undertaking this research. Please do not hesitate to contact us should you have any questions about the questionnaire. The contact person is Stephanie Heidenreich, tel. (204) 982-1150, E-mail: s.heidenreich@uwinnipeg.ca.

A few notes before you begin:

- Except where provincial land use policies are referred to specifically, the term **Policy** includes land use policies, planning goals, strategies and the enabling legislation (statutes and regulations).
- We recognise that government structure and types vary across the country. We have attempted to be as inclusive as possible of all types of local governments (municipalities, other types of local governments, regional county municipalities, other types of regional governments, etc.). However, we anticipate that in some instances respondents will have to interpret the question to suit their situation. If you are uncertain as to how a specific question relates to your jurisdiction, please do not hesitate to contact us.

POLICY

- 5) a) Is your community required to prepare an official community plan? What types of benefits and difficulties does this present?

b) What are the major components⁴⁸ *required* to be addressed by the enabling land use legislation (i.e. planning act/municipal act) in local and regional (or inter-municipal) plans? Do these components reflect the land use issues in your community?
- 6) Is there any specific element of legislation that has caused difficulties or undue restrictions in your community? Is there legislation that you feel should be adopted to better meet land use issues in your local community or region? Please specify.
- 7) What types of problems have you encountered with regard to the provincial land use planning system (including policy and process)?

Please answer questions #4 and #5 only if comprehensive provincial land use policies (or goals/strategies) are in place.

- 8) What is the role of *provincial land use policies* in the development of local, regional or inter-municipal plans?
- 9) What are the strengths and limitations of the provincial land use policies?

⁴⁸ I.e. environment, sustainability, economic growth, public health, safety and welfare, communication and transportation, resource management, floods/erosion/hazards, recreational resources, heritage, housing, etc.

PROCESS

- 10) Does the province/territory require performance measures? If so, what are they and are they appropriate?
- 11) Is there ongoing, productive dialogue between the province/territory and local government, or are local governments consulted only rarely or superficially? If there is close co-operation, please explain how this is achieved. If not, please outline the major problems and stumbling blocks.
- 12) Does the province provide early, useful feedback/input on local, regional or inter-municipal plans?
- 13) Is the appeal process⁴⁹ satisfactory from the local government perspective? What are its strengths and weaknesses? What improvements would you like to see?
- 14) What happens when provincial policy does not correspond to local government aspirations? How is this resolved, in the long and short term (i.e. with respect to the specific dispute, and in terms of long-range policy changes)?

GOVERNMENTAL ORGANISATION

- 15) a) What provincial departments/ministries do you deal with regarding land use planning?
 - b) From a local government perspective, is there adequate co-ordination among provincial departments/ministries? If not, how could it be improved?
 - c) Please list, in general, some strengths and weaknesses of the current system of governmental organisation related to land use planning.
- 16) Does the province or territory have planning personnel in your community? If yes, who funds them? If no, how are planning services obtained and who funds them?

INTER-MUNICIPAL AND REGIONAL GOVERNANCE

- 17) Does the province/territory encourage, impede, or facilitate/support inter-municipal collaboration? How? Does your jurisdiction have sufficient authority to act effectively in inter-municipal or regional matters?

⁴⁹I.e. Municipal Board, appeal boards, mediation, other conflict resolution mechanisms.

Questions #14 to #18 are directed only at *municipal* governments *not* in planning regions.

- 18) Does your local municipal jurisdiction participate in inter-municipal collaboration? Why or why not?
- 19) What type of mechanisms are currently in place to deal with inter-municipal conflict? Are they effective? Please indicate the strengths and weaknesses of the approach in place.
- 20) What have been, or what would you anticipate to be, the benefits and difficulties of inter-municipal co-operation in your region?
- 21) Has municipal amalgamation taken place (i.e. in the last 10-15 years), or is it being considered in your area? What are/would be the advantages and disadvantages of amalgamation for improving land use planning?
- 22) Would regional organisation have a positive impact on your community? What type of model⁵⁰ would you find most suitable? What benefits or drawbacks do you feel it would bring?

Questions #19 to #22 are directed only at *regional* governments (including regional county municipalities), or municipalities within planning regions.

- 23) How is your area's regional governance system structured? What type of co-ordination does provincial legislation permit within the region? What does it require?
- 24) How is power balanced between the dominant centre(s) and the surrounding communities in your region?
- 25) How is the leader of the regional governance structure chosen (appointed/elected, by whom?)
- 26) What types of conflicts arise in the region? How does the regional structure deal with them?

LAND USE ISSUES

- 27) What are the most important land use issues a) within your jurisdiction; and b) in the region surrounding your jurisdiction?
- 28) Does legislation/policy enhance or impede your jurisdiction's ability to deal with these issues? Please explain.

⁵⁰I.e. voluntary association of municipalities, separate level of government with directly elected representatives, regional structure with or without the ability to make decisions binding municipalities, etc.

CONCLUSION

- 29) Has provincial/territorial land use policy had any unintended consequences (positive or negative) on land use in or around your area⁵¹?
- 30) What are the most significant changes your jurisdiction is experiencing that have an impact on land use planning⁵²? How has your jurisdiction and/or province/territory responded? Has this response been adequate/appropriate, and why?
- 31) Please feel free to attach other, general comments that you feel are important regarding land use planning in your jurisdiction.

Thank you for your time!

⁵¹I.e. restrictions of land supply; restriction of limit industrial, commercial, or agricultural activity; rising land costs; lengthened approval times, etc.

⁵²I.e. intensive livestock operations, mining project, population growth, new environmental concerns, increases in ex-urban development, tourism and recreation, government restructuring, etc.

Appendix D

Local Government Survey (French Version)

Questionnaire d'enquête

Planification territoriale : le point de vue des gouvernements locaux

Politiques et cadre d'aménagement

- 1) a) Votre collectivité est-elle tenue de préparer un plan ? Quels sont les bénéfices, les problèmes ou les désavantages les plus importants que vous associez à la préparation de ce plan ?
b) Quelles sont les composantes obligatoires définies par les lois qui encadrent la planification du territoire ? Ces composantes reflètent-elles adéquatement les enjeux⁵³ d'aménagement de votre collectivité ?
- 2) Quelles sont les composantes ou des éléments des lois en vigueur qui vous ont posé des problèmes d'application ? Quels changements proposeriez-vous ?
- 3) Quels types de problèmes le cadre actuel qui régit la planification et l'aménagement du territoire avez-vous rencontrés, aussi bien les politiques que les processus ?
- 4) Quel est le rôle et comment percevez-vous ce rôle des politiques provinciales d'aménagement dans le cadre de l'élaboration des plans ?
- 5) Quels sont les forces et les faiblesses des politiques provinciales ?

Processus

- 6) Le gouvernement provincial vous impose-t-il des mesures ou indicateurs de performance ? Si oui, lequel(le)s ? Sont-ils (elles) adapté(e)s ou approprié(e)s ?
- 7) Quels sont les commentaires que vous auriez à formuler sur le processus de concertation qui régit les relations entre le gouvernement provincial et votre collectivité, en matière d'aménagement ? La collaboration est-elle superficielle ou rare ? Si la collaboration est étroite, expliquez-nous comment elle se réalise ? Si non, quels sont les principaux problèmes et les embûches ?
- 8) Dans le cadre de l'élaboration des plans, le gouvernement provincial vous adresse-t-il des commentaires en temps opportun ? Les commentaires ou avis sont-ils pertinents et utiles ?
- 9) Quels sont les mécanismes permettant à votre collectivité d'en appeler d'une décision du gouvernement provincial relative au plan ? Ces mécanismes vous satisfont-ils ? Quelles en sont les forces et les faiblesses ? Quelles améliorations proposeriez-vous ?
- 10) Que se passe-t-il si les politiques provinciales ne répondent pas aux aspirations de votre collectivité ? Comment sont résolus, à court et long termes, les conflits de cette nature ? Veuillez indiquer la nature des conflits et les changements obtenus ou attendus au niveau des politiques ?

⁵³ Environnement, développement durable, croissance économique, santé publique, sécurité publique et bien-être social, communication et transport, ressources naturelles, inondations, érosion et risques, récréation, patrimoine, habitation, etc.

Organisation gouvernementale

- 11) a) Quels sont les ministères avec lesquels votre collectivité doit collaborer dans le cadre de l'élaboration des plans ?
- b) De votre point de vue, la coordination entre les différents ministères associés à la planification du territoire est-elle adéquate ? Quels sont les problèmes que vous percevez et quelles sont vos suggestions ?
- c) Dressez la liste des forces et des faiblesses de l'organisation gouvernementale actuelle liée à la planification et à l'aménagement du territoire ?
- 12) Y a-t-il du personnel du gouvernement provincial du ou des ministères associés à la planification du territoire dans votre collectivité ? Ce personnel est-il rémunéré par le gouvernement provincial ou une partie ou la totalité de sa rémunération est-elle payée par votre collectivité ou d'autres instances ? Avez-vous recours aux services des employés provinciaux pour l'élaboration de vos plans ? Si non, qui sont chargés de leur réalisation ?

Gouvernance intermunicipale et régionale

- 13) Le gouvernement provincial, par ses lois et politiques, favorise-t-il, encourage-t-il ou nuit-il, à la coopération intermunicipale ? Comment ? Votre collectivité a-t-elle l'autorité suffisante ou dispose-t-elle des moyens suffisants pour intervenir efficacement dans les questions intermunicipales et régionales ?
- Les questions 14 à 18 ne s'adressent qu'aux collectivités qui ne font pas partie d'un district de planification.
- 14) Votre collectivité participe-t-elle en matière de planification et d'aménagement à des expériences de coopération intermunicipale. Si oui, quels en sont les avantages et les inconvénients ? Si non, pourquoi ?
- 15) Quels sont les mécanismes en place pour régler les conflits intermunicipaux en matière de planification et d'aménagement du territoire ? Sont-ils efficaces ? Quelles sont les forces et les faiblesses du système actuel ?
- 16) Quels ont été ou seraient, les bénéfices et les problèmes de la coopération intermunicipale dans votre région ?
- 17) Dans votre région, y a-t-il eu au cours de 10 à 15 dernières années ou y aura-t-il des fusions municipales ? Si oui, en matière de planification et d'aménagement du territoire, quels sont les avantages et les inconvénients de ces fusions à l'échelle de votre région ?
- 18) Quels seraient les bénéfices pour votre collectivité, en matière de planification, de la mise en place d'une organisation régionale ? Quels modèles⁵⁴ préféreriez-vous ? Quelles seraient les principales contraintes pour votre collectivité ?

⁵⁴ Regroupement ou association volontaire, niveau de gouvernement à représentativité directe (élus au suffrage universel au niveau régional) ou indirecte (élus locaux siégeant au niveau régional), structure régionale avec ou sans le pouvoir d'imposer des décisions aux municipalités qui la composent, ...

Les questions 19 à 22 ne s'adressent qu'aux gouvernements régionaux ou encore, aux municipalités comprises dans des districts de planification.

- 19) Comment est structuré le système régional de gouvernance ? Quels types de coordination intrarégionale, les lois actuelles permettent-elles ? Quelles sont les obligations qui y sont associées ?
- 20) Quels problèmes soulèvent la dynamique rurale-urbaine dans votre collectivité? Comment ces problèmes sont-ils résolus ?
- 21) Comment le leader de la structure régionale ou du district est-il choisi ? Est-il élu au suffrage universel à l'échelle de la région ou du district ? Est-il nommé et si oui, par qui ?
- 22) Quels sont les types de conflit en matière de planification et d'aménagement du territoire que votre collectivité a connus ? Comment la structure régionale ou le district interviennent-ils dans la résolution des conflits ?

Enjeux d'aménagement

- 23) Quels sont les enjeux principaux de la planification et de l'aménagement de votre collectivité ? De la région environnante ?
- 24) Les politiques et les lois en vigueur vous permettent-elles d'apporter des réponses efficaces et adaptées à ces enjeux ou nuisent-elles à vos efforts ?

Conclusions

- 25) Les politiques provinciales ayant des incidences sur l'aménagement du territoire ont-elles eu des effets inattendus⁵⁵ (positifs ou négatifs) sur le développement et l'aménagement dans votre collectivité ?
- 26) Quels sont les changements⁵⁶ importants qui ont marqué l'évolution de votre collectivité et qui ont eu une incidence sur la planification et l'aménagement de son territoire ? Comment votre collectivité et le gouvernement provincial ont-ils répondu à cette évolution ? La réponse a-t-elle été satisfaisante ? Si oui, pourquoi ? Si non, que proposeriez-vous pour faire face à ces nouveaux défis ?
- 27) Vous êtes invités à nous faire part de tout autre commentaire sur les questions liées à la planification et l'aménagement du territoire que vous jugeriez important que nous prenions en considération.

Nous vous remercions de votre précieuse collaboration.

⁵⁵ Restriction de l'offre de terrains et/ou augmentation des prix des terrains, contraintes à la pratique d'activités industrielles, commerciales ou agricoles, accroissement des délais d'approbation, ...

⁵⁶ Intensification de l'élevage, projets miniers, croissance démographique, nouveaux enjeux environnementaux, exurbanisation, restructuration gouvernementale ou administrative, ...

Appendix E

*Local Government Survey (French version,
adapted for Quebec)*

Questionnaire d'enquête

Planification territoriale : le point de vue des MRC au Québec

Politiques et cadre d'aménagement

- 1) Quels sont les bénéfices associés à la révision du schéma d'aménagement ? Quels sont les problèmes ou les désavantages les plus importants que vous associez à la révision du schéma d'aménagement ?
- 2) Les composantes obligatoires et les orientations gouvernementales reflètent-elles adéquatement les enjeux⁵⁷ d'aménagement de votre MRC ?
- 3) Quelles sont les composantes ou les orientations gouvernementales qui vous ont posé des problèmes d'application ? Quels changements proposeriez-vous ?
- 4) Quels sont les avantages du cadre actuel qui régit la planification et l'aménagement du territoire ?

Processus

- 5) Quels sont les problèmes ou les contraintes que vous posent le processus qui régit la planification du territoire ?
- 6) Quels sont les commentaires que vous auriez à formuler sur le processus de concertation qui régit la révision du schéma d'aménagement (efficacité, opportunité, pertinence) ? Veuillez faire des commentaires sur chacune des étapes, à savoir :
 - la transmission par le gouvernement du document : Les orientations du Gouvernement en matière d'aménagement : pour un aménagement concerté du territoire, 1994 et ses addenda ;
 - la transmission par la MRC du document sur les objets de la révision (DOR) ;
 - la transmission des orientations gouvernementales et les avis successifs sur les versions du schéma révisé.
- 7) Le contenu des orientations gouvernementales et des avis successifs du gouvernement sont-ils pertinents et suffisamment précis ou trop détaillés ? Quels sont les problèmes que vous avez rencontrés ?
- 8) Au Québec, l'arbitrage des conflits en matière de planification entre le gouvernement et la MRC est un processus politique et il n'y a pas de mécanisme d'appel. Comment percevez-vous les avantages et inconvénients de ce système ? Croyez-vous qu'il serait utile qu'une instance de nature administrative puisse jouer un rôle d'arbitre dans l'évaluation de la conformité du schéma révisé aux orientations gouvernementales, de manière analogue à ce qui est prévu dans la loi pour les interventions gouvernementales ?

⁵⁷ Environnement, développement durable, croissance économique, santé publique, sécurité publique et bien-être social, communication et transport, ressources naturelles, inondations, érosion et risques, récréation, patrimoine, habitation, etc.

- 9) Quelles sont les conséquences d'un avis défavorable du gouvernement formulé à l'égard d'un schéma d'aménagement révisé ? Comment cette situation est-elle résolue, à court et à moyen termes ? Quelles seraient vos suggestions pour améliorer le système actuel ?

Organisation gouvernementale, coopération intermunicipale et inter-MRC

- 10) La coordination entre les différents ministères associés à la planification du territoire, aussi bien au niveau provincial que régional, est-elle adéquate ? Quels sont les problèmes que vous percevez et quelles sont vos suggestions ?
- 11) Dans le cadre de la loi, un mécanisme spécifique permet l'adoption de propositions intermunicipales d'aménagement dans le cadre du schéma, propositions intéressant deux ou plusieurs municipalités de la MRC. Avez-vous eu recours à ce mécanisme ? Si oui, quels en sont les avantages et les inconvénients ? Si non, pourquoi ? Quelles propositions feriez-vous pour favoriser la coopération intermunicipale en matière d'aménagement au sein d'une MRC ?
- 12) Est-ce que votre MRC collabore, établit des ententes ou participe à des projets conjoints en matière d'aménagement, avec des MRC voisines ? Sur quels objets ? Quels sont les avantages et les contraintes associés à la coopération entre MRC dans le système actuel ?

Quelles seraient vos propositions pour favoriser et améliorer la planification inter-MRC ?

- 13) En matière d'aménagement, c'est le Ministre des Affaires municipales et de la Métropole qui tranchent les conflits entre MRC. Cette situation pose-t-elle problème ? Quelles seraient vos propositions pour améliorer la gestion des conflits en aménagement entre MRC ?
- 14) Dans votre MRC, y a-t-il eu ou y aura-t-il des fusions municipales ? Si oui, en matière de planification et d'aménagement du territoire, quels sont les avantages et les inconvénients de ces fusions à l'échelle de la MRC ?

Enjeux d'aménagement

- 15) Quels sont les enjeux principaux de la planification et de l'aménagement de votre MRC ? de la région environnante ?
- 16) Quels problèmes soulèvent la dynamique rurale-urbaine dans votre MRC ? Comment ces problèmes sont-ils résolus ?

Conclusions

- 17) Les politiques provinciales ayant des incidences sur l'aménagement du territoire (protection du territoire agricole, ressources naturelles, environnement, transport, ...) ont-elles eu des effets inattendus⁵⁸ (positifs ou négatifs) sur le développement et l'aménagement dans votre MRC ?
- 18) Quels sont les changements⁵⁹ importants qui ont marqué l'évolution de votre MRC et qui ont eu une incidence sur la planification et l'aménagement de son territoire ? Comment votre MRC et le gouvernement ont-ils répondu à cette évolution ? La réponse a-t-elle été satisfaisante ? Si oui, pourquoi ? Si non, que proposeriez-vous pour faire face à ces nouveaux défis ?
- 19) Vous êtes invités à nous faire part de tout autre commentaire sur les questions liées à la planification et l'aménagement du territoire que vous jugeriez important que nous prenions en considération.

Nous vous remercions de votre précieuse collaboration.

⁵⁸ Restriction de l'offre de terrains et/ou augmentation des prix des terrains, contraintes à la pratique d'activités industrielles, commerciales ou agricoles, accroissement des délais d'approbation, ...

⁵⁹ Intensification de l'élevage, projets miniers, croissance démographique, nouveaux enjeux environnementaux, exurbanisation, restructuration gouvernementale ou administrative, ...

Appendix F

Criteria for selection of municipalities

Criteria for Selection of Municipalities and Settlements

We would request that you provide a list of 10 communities which would be appropriate to survey based on the following criteria, with a brief note describing the community's important characteristics and why you feel it should be surveyed.

Primary considerations:

- 1. Size:** Centres should represent a range of sizes, from major urban centres to medium-sized and small communities.
- 2. Location:** Centres should reflect distribution throughout the province/territory, and include centres in the commutershed of a major urban centre, regional centres and more isolated communities in sparsely settled regions (i.e. northern communities).
- 3. Type:** Communities should reflect the local range of governance structures, including urban municipalities (cities), "suburban" municipalities (characterized by rural residential development) and rural municipalities (land use is primarily resource-based).
- 4. Demographics:** Communities should be selected with demographic trends in mind, representing, for instance, rapid population growth or decline in selected areas.
- 5. Structure:** Communities may be selected to highlight issues around regional coordination or lack thereof (i.e. municipal fragmentation, municipalities that work well with their neighbours and those that do not).
- 6. Other Traits:** Other salient features specific to certain regions may also be considered in selecting communities, particularly rural municipalities. These should ensure that regional issues are appropriately represented by the municipalities chosen to be surveyed. For instance, presence of intensive livestock operations, oil and gas exploitation, or gravel, proximity to a natural preserve, a coastal location or contiguity to unincorporated territory may be relevant. In the north, communities at various stages of the treaty process could be represented (those with settlements and those without). Other traits should be taken into consideration as applicable.

Knowledge of the planning process

Because communities which have been extensively involved in planning are in a better position to provide information about the planning process, we ask that communities selected have sufficient capacity to provide substantial information and informed views on the provincial/territorial planning process.

Appendix G

Local Government Response Rates

Local Government Response Rates

Province	Number of Local Governments Contacted	Number of Local Government Responses	Response Rate
British Columbia	10	6	60%
Alberta	8	2	25%
Saskatchewan	6	2	33%
Manitoba	6	4	67%
Ontario	10	6	60%
Quebec	10	8	80%
New Brunswick	6	2	33%
Nova Scotia	6	1	17%
Prince Edward Island	4	1	25%
Newfoundland	5	1	20%
Yukon	3	2	67%
Northwest Territories	4	1	25%
Nunavut	3	0	0%
Total	81	36	44%